- Sam Nunn for President?
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The Washington Monthly

DECEMBER 1989/$3.00

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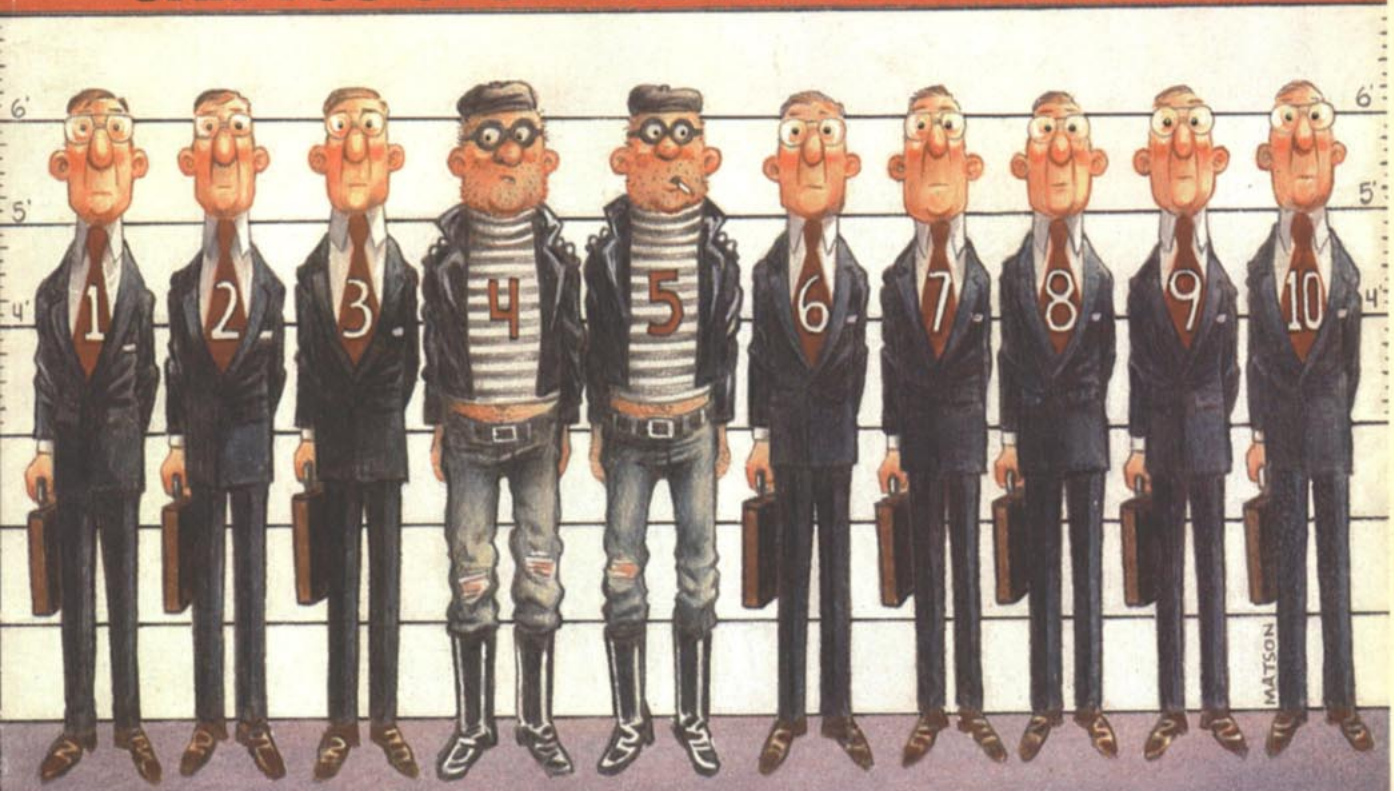

WHAT'S WRONG WITH THE FOURTH AND FIFTH AMENDMENTS

by Paul Savoy

20TH ANNIVERSARY YEAR 1989

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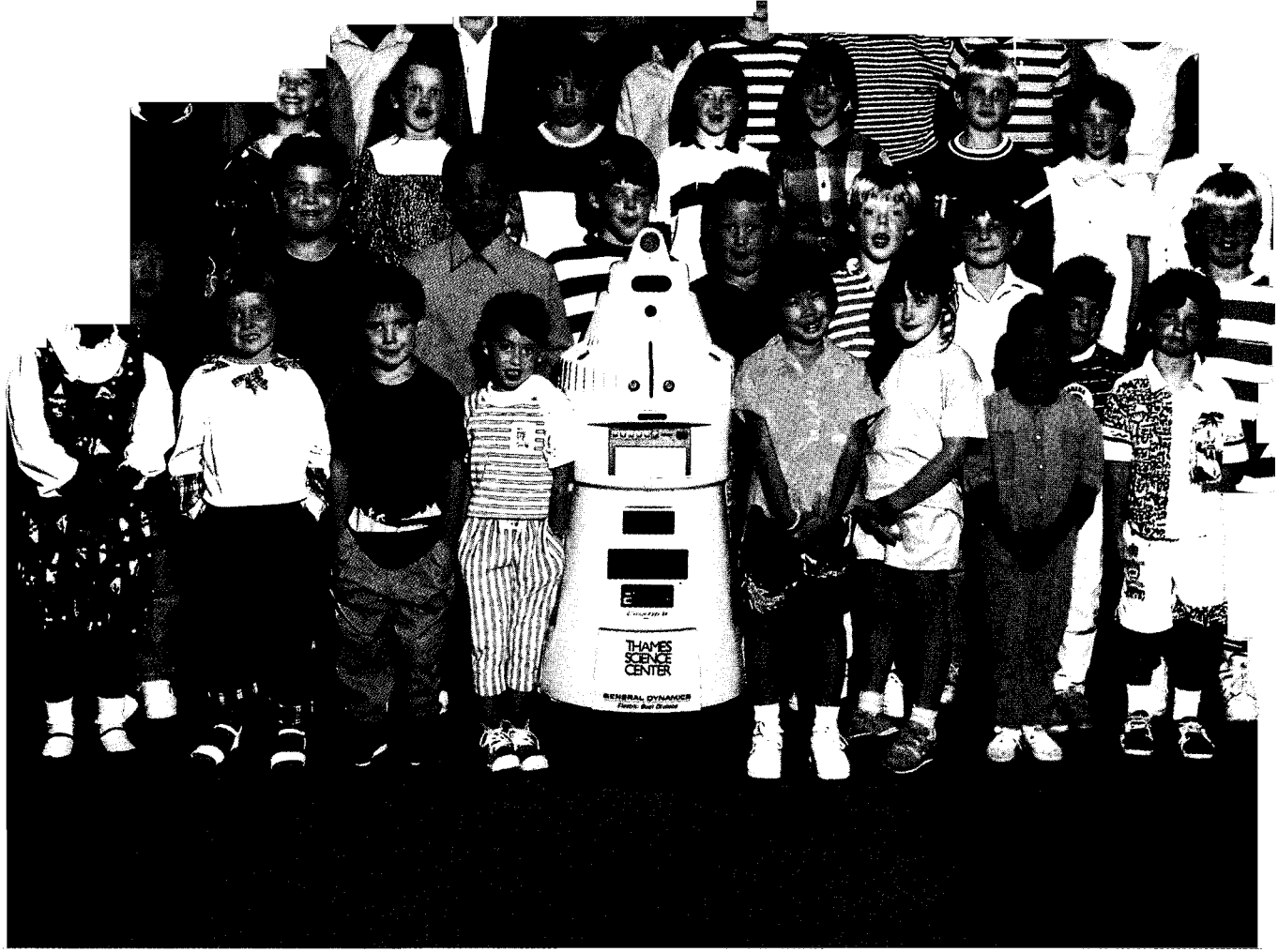

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The Washington Monthly

Volume Twenty-One, Number Eleven December 1989

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Cover illustration by R.J. Matson. Cover photo for the November issue was by Diana Walker.

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LETTERS

Caesar's ghosts

I was pleased to see your comments on the soaring rate of cesarean sections ["Tilting at Windmills," September]. However, you overlooked several of the culprits:

Interns. The very highest cesarean rates in this country are found at teaching hospitals—spiking up to 40 percent at certain times of the year. Though the physician wielding the scalpel may be a private practitioner, his decision to operate is influenced by the interns' desire to see more glamorous, exciting procedures.

Insurance rules. Many insurance plans follow the penny-wise, pound-foolish policy of declining to cover normal prenatal or maternity costs—but they will automatically and without question pay for any cesarean operation.

Women themselves. Sadly, the vast majority of cesarean patients have bought the doctor-fostered myth of "cesarean birth," the notion that it doesn't really matter how the baby gets there. Of the four babies on my block under the age of two, three were born by nonemergency cesarean.

It is probably too late to expect doctors to change. I believe the best hope for American women lies in the long-overdue recognition and acceptance of the certified nurse-midwife. The United States stands virtually alone in its belief that the only acceptable birth attendant, even for the uncomplicated labor and delivery of a normal healthy woman, is a board-certified surgeon. Even today, many hospitals foster the appallingly dangerous practice of requiring nurses to *impede* the birth of those babies who dare to arrive in the delivery room sooner than the obstetrician.

LOUISE HOPE
Davis, California

Trials and tribulations

It was with rising anger that I perused your editorial observations about underworked trial judges ["Tilting at Windmills," September]. I had just finished a month in which I gave my government employer 80 hours of uncompensated overtime. In the preceding month, I took off eight weekdays for a well-earned vacation, but gave most of it back with 40 hours of uncompensated overtime. But what angered me in your column was not that trial judges spend only four hours a day on the bench; it was your ill-informed contention that judges spend the rest of the workday laying about.

I am a trial judge. I work 50 to 60 hours most weeks and am paid no overtime. I work most Saturdays, Sundays, and holidays. But I probably spend, on average, less than 20 hours per week on the bench. In August, I presided over a wrongful death case brought against a national drug manufacturer, a trial that lasted three and a half weeks and held millions of dollars in the balance. I was on the bench more than seven hours each day and worked in chambers most nights; yet the bench-time statistics do not reflect one *minute* of the *weeks* of time I spent evaluating and deciding pretrial motions in my chambers and in the law library, decisions which were then incorporated in written opinions. In another case, a complex race discrimination suit, I spent five to six weeks in court hearing the evidence, but that was preceded and followed by five to six weeks of work by me and another judge evaluating pretrial motions, sifting mountains of evidence, reviewing other court decisions spanning a century, and writing a 60-page decision explaining the facts and legal conclusions. Not one minute of those five to six weeks was spent on the bench.

I am startled to see claimed, by an editor who wishes to impress his readership with occasional references to his former career as a lawyer, that trial judges should be on the bench more because you think that, unlike appellate judges, they do not read legal briefs and write opinions. Most lawsuits never go to trial, yet they occupy most of a judge's time.

THOMAS M. JAHNKE
Ketchikan, Alaska

The editor replies:

I would feel the same way if I were one of the minority of judges who, like Thomas Jahnke, do work very hard. The problem is that by most Friday afternoons at 4, most judges aren't on the bench or in their chambers—they've gone for the weekend.

The envoy strikes back

Public officials are fair game for criticism. Most of us expect no more of journalists than an honest effort toward accuracy and objectivity. In my experience, most journalists deliver that. Your article concerning my service in Lebanon from August to September 1983 ["What America Hasn't Learned from Its Greatest Peacekeeping Disaster," October, Scott Shuger] doesn't.

The errors throughout the piece are too numerous to

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rebut in this space. The little ones can be forgotten as petty meanness. Others are more harmful to the extent they present a false history. For example, you say that I aligned myself with Maronite President Amin Gemayel. Far from it, I was the first American negotiator to insist to Gemayel that he commit himself to the fundamental reforms needed to give Lebanese Moslems their proportional due, both politically and economically. And it was toward that end that I worked not just with Gemayel but with Sunni, Shiite, and Druze leaders both in Lebanon and throughout the Middle East.

As for the events surrounding the battle at Suq-al-Gharb, everyone on the scene recognized the potential for being seen as taking sides by returning fire when we were shelled. You ignore the dangers to Americans of doing nothing—more lost lives in daily shelling and the image of impotence. Colonel Tim Geraghty, the commander of the Marines, and I were in the middle. Neither of us determined U.S. strategy or the rules of engagement. Our job was to make recommendations to Washington, as we did, and it didn't require any shouting matches.

Perhaps the most outrageous charge in the article is that my "own desires for battle" led me to risk and ultimately cause the death of the Marines. No one who has ever been a soldier or sailor or Marine in war could conceive such a thought. For you to do so is grotesque.

Because it would have been so easy to get the truth—virtually all those involved in decision-making from Colonel Geraghty to the president are available—one has to ask why this tract was published. Perhaps that, in the end, is the point. What kind of man would write such trash? And what kind of magazine would print it?

ROBERT MCFARLANE
Washington, D.C.

The author replies:

Because his reputation is at stake, Mr. McFarlane has an obvious interest in charging "false history," but several disinterested published reports—for example, Patrick Sloyan's pieces for *Newsday*, Thomas Friedman's stories in *The New York Times*, Larry Pintak's book *Beirut Outtakes*, and David Martin and John Wolcott's *Best Laid Plans*—have indicated that when McFarlane took on the job of presidential special envoy, he too often identified with the Gemayel point of view. This assessment of McFarlane's behavior is shared by Robert Dillon, who was then the U.S. ambassador to Lebanon.

Similarly, Mr. McFarlane's claim that there were no shouting matches between himself and the Marine commander, Colonel Geraghty, doesn't hold up. Pintak and Sloyan mention them, and three other sources—one of them a Marine based at the Beirut airport at the time—told me about them.

It is also untrue that Colonel Geraghty and Mr. McFarlane were available to me. I spoke to Colonel Geraghty briefly and he cordially told me that he had decided immediately after the Beirut bombing never to give an interview about it, and that he felt he had to stick to that policy. I made several attempts to set up an interview with McFarlane, but I was told on two occasions by his assistant that she had relayed my request to him and that he had decided not to talk to me.

The Washington Monthly

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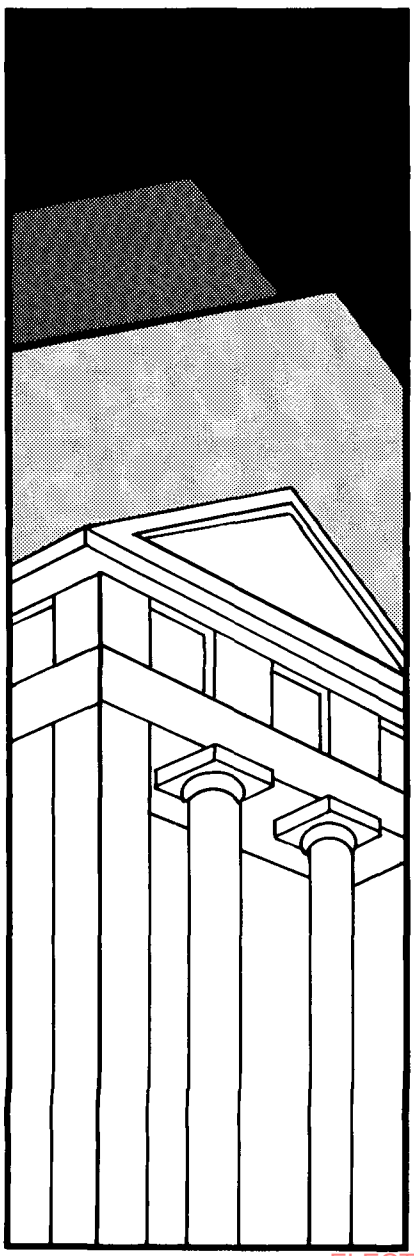

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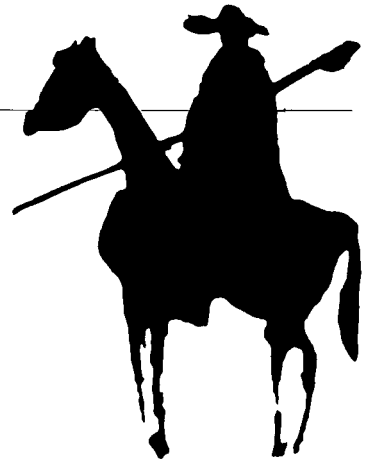
TILTING AT WINDMILLS



If you have doubted my contention that bureaucracies are run for the bureaucrats rather than for the public, please consider the case of Jerry M. Brown, medical coordinator for the Office of Mobilization Preparedness of the Federal Emergency Management Agency, who left for vacation the day after the California earthquake.

Why was this permitted, especially since we were told that Hurricane Hugo had already severely strained the agency's resources? Because Brown had purchased nonrefundable airline tickets. . . .

When John Sununu was asked during an interview this fall if he speaks his mind to the president, he replied:

"Not very often and only when asked."

This is bad news. The government is not going to work very well if the president's principal aide hesitates to say what he thinks to his boss. . . .

In her new book about her career as a White House speech writer, Peggy Noonan tells of the time she went to Richard Darman prepared to fight a major battle to avoid having to write for Nancy as well as Ronald Reagan. But just as she launched into the presentation of her case, Darman interrupted to say:

"You're not going to write the First Lady's speeches. It will be taken care of. Any other problem?"

"I was taken aback, and a little disappointed," writes Noonan. "Here I was all wound up. I wanted to have to insist."

Years ago my wife and I noticed this in domestic strife. If one of us had built up a full head of steam about some grievance, it was wiser for the other to let it all blow off before conceding the validity of the grievance. A premature, "You're absolutely right, dear, I'm sorry," could deprive the moment of the satisfaction that only a full airing of the complaint can provide. The same is true, I have found, of negotiations with the writers, artists, businessmen, and public officials I deal with in the course of putting out the *Monthly*. If they are angry—and especially if they feel they have a good case, give them plenty of time to lay it out before you agree. Even when you disagree, you may find that all they really wanted was ample opportunity to rake you over the coals. . . .

How many times did you read in the papers or hear on the radio or television a figure of more than 200 used to describe the number of fatalities caused by the California earthquake? The correct figure was less than 100, but the temptation to hype the story was so great that almost everyone in the news business yielded to it and persisted in using numbers in the 200 range, well past the point that reasonable wariness should have flashed a yellow, if not red, light.

I have seen only one article—by Eleanor Randolph of *The Washington Post*—about this absurdity. There should be a lot more.

Earlier this year, Randolph wrote about another practice that deserves much more attention—journalists who accept speaking fees (or honoraria, as they are politely called) from organizations that have an interest in the stories the reporters write. When are news organizations going to come up with some standards governing the acceptance of the honoraria? Shouldn't they at least make public disclosure of the fees received by their employees? I wonder, for example, how much Deborah Norville of NBC's "Today Show" was paid by Philip Morris to serve as "anchor" for a corporate sales presentation in Hawaii. According to a report in

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Newsweek, she interviewed tobacco executives, introduced videos on new tobacco sales equipment, and read "news" of sales-force reorganization. She said she had NBC's approval. If that's true, what does it say about NBC and its owner, General Electric?. . .

Speaking of Philip Morris, have you seen those revolting ads that try to clothe this international dope peddler in the moral armor of the Bill of Rights? Do you realize that the National Archives accepted a $600,000 payoff to allow the use of its name in these commercials? . . .

Could it be that liberals are more courageous than conservatives? I know that the usual assumption of the John Waynes and Charlton Hestons is the reverse. But I recall the thousands of American leftists who joined the Lincoln Brigade and fought at the side of the Loyalists in the Spanish Civil War. I don't recall reading about any comparable group of conservatives going to the aid of the contras in Nicaragua. Perhaps Elliott Abrams and his friends have some explanation.

Did you see that Admiral William Crowe called Abrams's proposals for military intervention in Panama "naive in their formulation and reckless in their casual commitment of our military men and women"?— a recklessness that, Crowe noted, "is not unknown among young appointees who have never served in uniform. However, Mr. Abrams raised it to an art form."

Come to think of it, can you recall a Calvin Coolidge Brigade fighting for Franco? . . .

The military now excludes women from combat roles, and it tries to exclude gays altogether. I think both policies are wrong. Certainly not all women are fit for combat roles, but neither are all men. And if you do no more than watch the Olympics every four years, you know that some women have all the physical skills needed for combat.

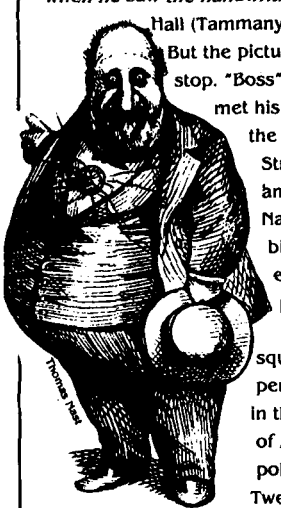
As for gays, the worry has been that fear of exposure could make them vulnerable to blackmail by spies. That may be true if they are in the closet. But if they're willing to acknowledge their homosexuality publicly, why shouldn't they be soldiers or sailors? As things stand now, a gay has to be in the closet to get into the military, which means he *is* a security risk. . . .

A conference on the Catholic Church and the Environment was held at Georgetown University in October. It was an important first step because the silence of the church on environmental issues has been scandalous. The silence appeared to have been motivated by a fear that discussion of environmental problems would lead to identifying overpopulation as a possible cause, which in turn would lead to calls for birth control. . . .

I'm delighted to see that George Shultz has come out for drug legalization. Legalization will certainly have its unhappy consequences, probably including some rise in addiction. But it is the only way to end the terrible epidemic of corruption and murder that is the result of illegal drugs. So we desperately need people of Shultz's stature to speak up and give politicians the courage at least to consider the possibility of legalization. We have the blood of honest Colombian judges on our hands. Thousands of black teenagers are being murdered. Thousands of law

"STOP THEM DAMN PICTURES"

That's what "Boss" Tweed demanded when he saw the handwriting on the Hall (Tammany, that is). But the pictures didn't stop. "Boss" Tweed met his maker in the Ludlow Street Jail and Thomas Nast put bitingly eloquent political cartoons squarely and permanently in the middle of American political life. Tweed aside, we think Emerson had it right when he said, *"Caricatures are often the truest history of the times."*



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enforcement officials are being corrupted. Prohibition of drugs has not proven any wiser than the prohibition of alcohol. . . .

If you've ever been on one of those McLaughlin Group-type television shows, you know that one of the things wrong with them is that they demand that you appear to be an expert on whatever subjects are dominating the news the week you're on the show. Conscientious participants devote their Friday mornings—the shows often are taped on Friday afternoons—to frantic phone calls to friends who happen to know something about Zimbabwe, which has suddenly become the center of the news this week. Hardened regulars merely recycle their usual boilerplate, automatically applying it to Zimbabwe.

This tendency is especially marked in the case of two-person panels such as "Crossfire," which for many years featured conservative Pat Buchanan and liberal Tom Braden, who was recently replaced by my friend, Michael Kinsley. I hope that Kinsley will not fall into the trap of being the house liberal. His intellectual distinction is based on a willingness to seek truth outside the well-trodden paths of conventional liberalism and conservatism. But the show's current closing lines—"from the Left I'm Mike Kinsley; from the Right I'm Pat Buchanan"—do not seem promising.

The conventional liberal and conservative pattern tends to be repeated by the interviewees selected to discuss controversial issues on the network news programs, and, most maddeningly, on MacNeil-Lehrer. Abortion, for example, will be discussed by pro-choice and pro-life guests. No one will argue, as *The Washington Monthly* does, that while abortion should be a legal right, it is often morally wrong.

Of course, some suggestion that neither of the conventional ideological positions has a corner on the truth could come from the interviewer. But it rarely does. The respectable liberal position, for example, is seldom challenged by Robert MacNeil. When Vartan Gregorian, the president of Brown University, was trying to give the impression that his school's distribution requirements produced the same educational result as a rigorous core curriculum favored by conservatives, MacNeil did not ask the questions that would have revealed how little can be learned under the Brown system. Thus MacNeil-Lehrer viewers were left totally unaware of the intellectual inadequacies of the distribution approach that were explored in the October issue of this magazine. Furthermore, the program barely hinted at the liberal core curriculum that we advocate. . . .

Several years ago we asked our readers to write us about outstanding bureaucrats they knew. We were dismayed when we didn't get a single letter. Perhaps, we thought, because we're so critical of bureaucrats, people don't believe us when we say we want to recognize the good ones. But now comes a man named Matthew Lesko who is sponsoring a "My Favorite Bureaucrat" contest, offering an award of $5,000 for the winner. Although his offer has been publicized on several national television shows, Lesko has received exactly one nomination in the four months since the award was announced. Even one who believes, as I do, that public service in America has deteriorated seriously in the past 25 years has to acknowledge that there are still some dedicated people left in government, people who deserve recognition and emulation by their colleagues. If you know one, write us about him. And nominate him for the award by writing Box 15700, Chevy Chase, MD 20815. He could probably use that $5,000. . . .

Just in case your knuckles aren't white enough the next time your jet zooms down the runway, consider a few facts that have emerged in recent studies. One by the GAO shows that two-thirds of the federal inspectors who check airplane pilots' ability to fly safely were not qualified to fly the planes themselves. Another by the *Milwaukee Journal* found that 302 licensed Wisconsin pilots had been convicted of drunk driving, 47 were convicted of two or more alcohol-related driving offenses, and 10 had at least three such convictions over the past five years.

If you have even the sketchiest knowledge of our criminal justice system, you are aware of how serious the offense must be for the prosecutor to actually take a drunk driving case all the way to conviction. Most drunk driving charges are reduced or dismissed before trial. So these 302 are the tip of a very large iceberg. . . .

"Don't you think you have an obligation to figure a way out of the current mess?" asked a reporter at George Bush's press conference on October 13th.

"No," said the president.

The question concerned catastrophic care. Maybe Bush *is* a wimp. His reluctance to take on catastrophic care represents a truly crucial moral failure.

It is crucial for this reason:

As the politics of selfishness has come to dominate this country over the past 20 years,

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Washington lobbyists have increasingly imitated the National Rifle Association by following the lead of their own most extreme members, the ones who refuse to concede any weakness in the lobby's position or any virtue to arguments from the other side.

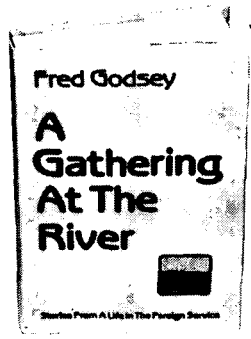
Lobbyists for the American Association of Retired Person (AARP) had not been an exception to this trend. Until last year. Then they took a risk. They conceded that the affluent elderly, because of the other benefits they were getting from the government, should pay for the catastrophic care program. It was a reasonable and fair-minded concession. But the AARP lobbyists have now been rebuked for that concession. In the absence of presidential leadership, the extremists have won and every other lobbyist in Washington will take heed. The cost to the republic will be immense. . . .

A Baltimore woman who was known to have abused her infant son in the past was ordered to produce the child in court. She refused on the grounds that compliance would amount to compelled self-incrimination. In other words, if she were ordered by the court to bring her son in and did so, the child's physical condition might reveal that she was guilty of continued abuse. Or, if she did not bring him in, despite having been ordered to do so, the authorities might suspect that she had killed or seriously injured the child, and this suspicion might eventually lead to her arrest and conviction. If, unlike the Maryland Court of Appeals, which accepted this reasoning, you find her claim to the protection of the Fifth Amendment less than compelling, be sure to read Paul Savoy's article on page 36. . . .

Also, be sure to read *Fiorello H. La Guardia* by Thomas Kessner. It will remind you that big city government really can be honest and efficient and caring. It will also remind you of what a great and noble enterprise government can be, of how exciting and proud a life of public service can be. It was that way under La Guardia in New York in the thirties and forties. It was that way under FDR in Washington during the same years. And it was that way when I came to Washington under John Kennedy.

It could be that way again if talented people would enter public service today. All those brilliant people who are wasting their lives in the huge law firms and on Wall Street could make a major difference in the way this country is governed if they would forget about getting rich and would instead devote their lives to public service. . . .

—*Charles Peters*



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Born to be Mild

He's influential, informed, and responsible. But do you really want Sam Nunn to be president?

by Timothy Noah

Dressed in Sunday-best pastels, the ladies of the Georgia Federation of Women's Clubs sit in a conference room of the Macon Hilton, hands folded in laps, waiting to hear from their senator, Sam Nunn. Nunn, in a beige suit and red tie, sits behind a dais decorated with daisies. His presence has created an electric sense of anticipation: One month earlier, he made headlines by engineering the rejection of John Tower, President George Bush's choice for secretary of defense. Introducing Nunn, Barbara Fallin, a longtime family friend, speaks of the growing national reputation of the senior senator from Georgia and chairman of the Armed Services Committee. "He knows more about NATO than any other member of Congress," she says proudly.

Nunn rises to a standing ovation and takes the podium. He jokes about a tongue-tied friend who introduced him on another occasion by saying Nunn had been "vitally involved in fraud, waste, and abuse." The women laugh warmly. Nunn discusses the role of women in the professions. He praises the Federation's commitment to volunteer service. "Without the willingness to serve others," he says, "a democratic society simply cannot flourish and compete in the world." The crowd is in the palm of his hand.

As he shifts to global issues, however, Nunn starts to display his usual weakness on the stump—a tendency to get lost in a thicket of details. "We're spending about 5 1/2, 6 percent of our gross national product on national defense," says Nunn, while "the Soviets are spending about 20 percent—18 percent to 20 percent—as much as 18 to 20 percent." There are scattered coughs in the audience. "As recently as about 20, 25 years ago—don't hold me to the exact numbers and dates here—we had at that time in the United States, we controlled about 50 percent of the world's gross national product. . . .Today, that's down to about 25 percent." More coughs. "As recently as about 15 years ago, the United States had something like 70 percent—we produced about 70 percent of all the new technology coming out in the world. . . .Now it's down today to about 20, 25 percent."

By this time, the excitement has faded to respectful drowsiness more appropriate to a Sunday school sermon than to an oration by a rising political star.

No one has ever accused Sam Nunn of being charismatic. Yet the same quality that serves him so poorly before a crowd—a compulsion to dot every i and cross every t of quantifiable fact—has earned him the highest respect on Capitol Hill. "He is the most effective politician inside the Senate that I have seen," says Sen. Albert Gore Jr., who serves with Nunn on the Armed Services Committee. Nunn's military expertise is so highly regarded that his vote frequently determines whether a president gets what he wants on defense. The Tower defeat demonstrated one application of Nunn's power. Last summer's Senate vote on the administration's defense budget,

Timothy Noah is a contributing editor of the New England Monthly *and* The Washington Monthly.

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which Nunn supported, showed another. In the House of Representatives, George Bush's defense priorities got scrambled. But in the Senate, Nunn managed to pass a defense bill that reflected the administration's wishes, as well as his own.

A Democrat who describes himself as a "moderate conservative," Nunn is that rare politician who commands respect in both parties. In 1980 Nunn's standing among Republicans was so high that Ronald Reagan is said to have fleetingly considered him for the vice-presidential slot. Nunn says Reagan campaign officials never approached him, but he did have "some conversations with some of the Bush people"—he won't say who—about whether he wanted to be secretary of defense. (He told them he wasn't interested.)

Nunn lost some of his bipartisan luster when he launched his campaign against Tower, which resulted in a Senate vote split almost entirely along party lines. Conservative columnist Paul Gigot of *The Wall Street Journal* mocked Nunn's reputation as "Statesman Sam"; Senate minority leader Bob Dole, who led the pro-Tower forces on the Senate floor, coined a new word to describe Tower's opponents: "Nunnpartisan." Overall, however, the Tower fight enhanced Nunn's reputation by demonstrating his clout in the defense arena. And it certainly improved his standing among his fellow Democrats, who occasionally worry that Nunn is too conservative and too cautious.

It's been widely speculated that one of Nunn's motives in opposing Tower was to position himself for a presidential bid in 1992. Nunn gave serious thought to running for president in 1988. Today he says he has no plans to run, but he doesn't rule it out. Meanwhile, Democrats consistently rank him among their two or three strongest potential candidates. Nunn is regarded as one of the brightest and most responsible members of the Senate. He comes from the only region of the country—the South—that has produced any Democratic presidents during the last quarter-century. The editorial writers and the TV chat-show bookers love him. But does Sam Nunn have what it takes to be president?

SAM NUNN

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(From the 1956 Perry High School yearbook.)

Little Sam

Samuel Augustus Nunn was born 50 years ago in the town of Perry (pop. 11,000), in the heart of Middle Georgia's red dirt farm country. Today Perry is twice as populous as when Nunn was growing up; the march of progress can be measured by the fast-food joints that line the six-lane highway leading into town, named Sam Nunn Boulevard soon after Nunn was elected to the Senate. The Perry of Nunn's boyhood was a typical sleepy southern town of the pre-civil rights era, where businesses closed up for high school basketball games and townspeople could find out where a local fire was by ringing up Miss Hunt, the telephone operator.

The Nunns were a prosperous Methodist family who lived in a white clapboard house. Perry friends say that Nunn took after his somewhat solemn father, Sam Nunn Sr., a lawyer and farmer. Sam Sr. was universally known as "Mister Sam"; Sam Jr. would be called "Little Sam" until he left Perry for Washington. "We had a very close relationship," recalls Nunn, "but it was not one of those where you go hunting together and you play basketball together." Mister Sam was too old for that;

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he was 50 when Sam Jr. was born. One consequence of this stretch between generations was to bring the Civil War closer to Nunn than it is to most of us. Although only 51 today, the senator is the grandson of a private in the Confederate army. Another consequence was that Sam Nunn Jr. would always seem older than he really was—a trait that can be described either as maturity or stuffiness.

Little Sam was exposed to politics at an early age, when his father, who had held a seat in the state legislature, served as Perry's mayor. There were also Thanksgiving visits from Nunn's great-uncle, Rep. Carl Vinson, a congressional baron who chaired the House Armed Services Committee. But Nunn's developing political skills were focused on matters closer to home. His sister, Betty Nunn Mori, recalls Little Sam's campaign to persuade his parents to buy Perry's first television set so that he could watch the World Series. They were reluctant, not only because a TV seemed "frivolous," but also because it would require an enormous antenna, since the nearest station was in faraway Atlanta. Eventually Little Sam won.

Perry High School's 1956 yearbook features a photograph of a surprisingly blond and beefy-looking Sam Nunn playing "Donny Miller, a young romeo" in a school play, and compliments Nunn's "leadership ability" (he was a three-time class president) and his "wry sense of humor which pops out at odd times." Nunn had to be talked into taking a class in public speaking. "He did not like to get up in public and talk," says his mother, Elizabeth Nunn. "He knew he had to conquer that." Nunn preferred sports to speechifying, captaining Perry High's basketball team to victory in the state championships. He was also a diligent student. "You never gave an assignment he did not prepare thoroughly for," says Nunn's former high school English teacher, Florence Harrison, sounding a theme that his Senate colleagues echo today.

The promise of a basketball scholarship and the chance to join the Navy Reserve Officer Training Corps lured Nunn to Georgia Tech. But the future Armed Services Committee chairman flunked the Navy eye test. Although Nunn switched to Army ROTC, he soon had another plan. "I wanted to go to Washington for awhile, I wanted to go to law school, I wanted to do my military," which was mandatory in that pre-Vietnam draft era. He also wanted to be near home, because his father's health was failing. So Nunn joined the Coast Guard.

It's no small irony that Congress's foremost expert on military matters opted to meet his draft requirement with a six-month stint in the Coast Guard (followed by two years on active reserve and six years on standby reserve). Meeting an old Coast Guard buddy in the Capitol to pose for a photograph, Nunn quips, "We fought in the mosquito war in Cape May, New Jersey. A lot of blood flowed in that war." But in a subsequent interview, Nunn defends his Coast Guard service, which he spent teaching swimming and physical training. He says it exposed him to "people of every economic class."

Nunn is less enthusiastic about his active reserve duty, which required him to attend pointless weekend meetings in Atlanta. "Sitting in a downtown building, the only water we saw was a faucet," he says. Did the experience inform his views on national service? "It gives me some sense that you don't want to create jobs that don't have meaning."

His Coast Guard service completed, Nunn got his law degree at Atlanta's Emory University in the spring of 1962, then went to Washington, where Uncle Carl had a job waiting for him as a staff counsel to the House Armed Services Committee. Nunn's year in Washington convinced him to return to Georgia to pursue a political career of his own. It also introduced him to his future wife, Colleen O'Brien, who was working in the Paris embassy for the Central Intelligence Agency when Nunn passed through on a committee junket. The two were married in 1965.

Back in Perry with a fledgling law practice, Nunn threw himself into a variety of civic duties. Perry was a small enough town that a talented young man could quickly become a city father—especially if he was as prematurely solemn as Little Sam. Nunn chaired Perry's Chamber of Commerce and served on a biracial committee to address growing demands to abolish segregation. By 1968, he was representing Perry in the Georgia House of Representatives, where he joined the reapportionment committee in hopes of drawing up a Middle Georgia congressional district to run for. When the reapportionment plan failed to pass, Nunn told the representative who sat next to him that he planned to run for the Senate. "I thought he was talking about the State Senate," recalls Joe Frank Harris, now governor of Georgia. But Nunn meant the U.S. Senate, where he intended to succeed the recently deceased Richard Russell.

In a life marked by caution, Nunn's decision to run for the Senate stands out as singularly reckless. With only 2 percent name recognition statewide, Nunn challenged Gov. Jimmy Carter's choice to serve out Russell's term, an Atlanta lawyer named David Gambrell. "It was impulsive by Nunn standards," Nunn concedes. Perhaps Nunn's greatest liability was that he was only 34. Georgians were used to being represented in the Senate by old men—by patriarchs like Walter George, who as chairman of

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the Foreign Relations Committee had received weekly breakfast visits from Secretary of State John Foster Dulles, and Russell, who had been chairman of the Armed Services Committee.

Both senators had been consummately "responsible" politicians. In George's case, "responsible" meant never making waves—or even ripples. Russell was almost as conservative, but in his case "responsible" also meant, at least some of the time, having the courage to do the right thing even if it didn't suit his ideology. Russell was "incomparably the most influential man on the inner life of the Senate," according to William S. White, a *New York Times* reporter of Russell's era. Russell's finest hour came during the Korean War, when he presided over hearings on Harry Truman's firing of Gen. Douglas MacArthur. The easy path for a conservative politician was to join in the outrage over the firing, capitalizing on the ticker-tape parades that greeted the returning general in order to bully a vulnerable president. The Senate hearings would have provided a perfect platform for this type of demagoguery. Instead, Russell did the responsible thing: he handled the hearings in a low-key manner that smothered the political firestorm. Adroitly, quietly, he defused the right-wing hysteria instead of succumbing to it.

Nunn hoped to step into this Georgia tradition. After taking out a yellow pad and listing all the reasons he shouldn't run and the few reasons he should, he told his wife he didn't want to spend the rest of his life wondering whether he would have won. Nunn beat Gambrell in the primary by painting him as a "fake conservative." In the general election Nunn faced Fletcher Thompson, a Republican representative from Atlanta who had made the mistake of ignoring his many black constituents. Black leaders threw their support behind Nunn, even though he was anti-busing. Assured of black votes, Nunn was free to court conservatives. He sought—and won—the endorsement of Alabama governor George Wallace, and put as much distance as possible between himself and the party standard-bearer, George McGovern. Set to martial-sounding music, Nunn's TV jingle emphasized a tough-guy image. In the end, he won 54 percent of the vote—by far the narrowest victory of his Senate career. With a little help from Vinson a seat on the Armed Services Committee was waiting in Washington for the freshman senator.

From the start, Nunn's performance suggested that he had paid close attention to the model of the statesmen who preceded him. Given that Mary McGrory called him"stately" in a recent column, it's clear that by Georgia standards, Sam Nunn has arrived.

In a narrow, chandeliered room of the Senate office building named for Richard Russell, Sam Nunn

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is presiding over a hearing of the Armed Services Committee, which he has chaired since 1987. Nunn has said that Congress is never able to influence more than 3 or 4 percent of all Pentagon decisions, but within the Senate, Armed Services is quite powerful. It has the largest jurisdiction of any committee, overseeing 30 percent of the total federal budget. Inside the committee room, the senators are arrayed around a large U-shaped table. Behind them, staff members sit against the wall in a larger U.

Although Nunn confers frequently with committee staff director Arnold Punaro, the chairman is known for his command of defense policy minutiae. Jeffrey Record, who worked on defense issues for Nunn during the 1970s, says people always want to know who Nunn's "guy" is—the indispensable aide whose wisdom Nunn parrots. "Nunn doesn't have a 'guy,'" says Record. "He's got a whole network of people, from Henry Kissinger down to Arnold Punaro." Indeed, it is sometimes Nunn who must set his staff straight on the facts. Walking to the hearing room earlier that morning, Nunn teased his administrative aide, Charlie Harman, about the day's schedule, which had Nunn meeting at 11 a.m. to discuss "deprester jectories" with a House member. "Depressed trajectories," corrected Nunn.

The purpose of the hearing is to examine NATO strategy before the committee considers the administration's proposed Pentagon budget. General Colin Powell, newly installed as commander-in-chief of the Army Forces Command (and subsequently promoted to chairman of the Joint Chiefs of Staff) describes the ability of U.S.-based forces to get to a hypothetical European front. Nunn interrupts to complain that many of the proposed target dates are unrealistic. "We all know that we have a lot of forces in this country that cannot get to a European theater or any other theater in the first—some of them in the first 30 days, some of them get there 60 days, some of them 90 days," says Nunn.

Sam Nunn is in love with the nuts and bolts of defense policy. His detail-oriented approach to such mundane details contrasts sharply with the more exuberantly cerebral style of Rep. Les Aspin, chairman of the House Armed Services Committee. "Their politics are in many respects very similar," observes Gordon Adams of the center-left Defense Budget Project, but "Nunn is more guided by his caution." The different paths to power taken by the two chairmen are revealing. Aspin lured the attention of the press as a Pentagon gadfly, cranking out press releases on every conceivable defense issue. Nunn, who to this day almost never issues press releases, worked his way up more quietly as head of the Manpower and Personnel subcommittee. Manpower and Personnel was "the dullest subcommittee," according to Jeffrey Record. But it was a time when "manpower issues were really, really important." Among other problems, the upper reaches of the post-Vietnam officer corps were seriously bloated, and the All-Volunteer Force was having trouble recruiting qualified servicemen. Nunn got Congress to reduce the number of generals and admirals, and endorsed the idea of a military draft—a position he has since abandoned in favor of a voluntary national service program tied to student aid.

Tower play

No legislator—from a city council member to a U.S. senator—has the time to immerse himself in the details of every issue. With votes on housing, education, health care, defense matters, foreign policy, development, and a thousand other subjects, the senator who tried to stay on top of all of them would be unable to lead on any. To be useful to anyone, a senator needs to lay claim to an issue and make himself the reigning expert. The good ones—the ones known for an honest approach to their issues, for carefully examining any new program and objectively reporting its merits—become invaluable to their peers. On a vote that falls outside their field of expertise, senators look to responsible members like these. They can vote with the expert and go back to their own work without fear of embarrassment.

It is his command of defense issues—a sprawling and vital field—that has won Nunn his colleagues' esteem. Rather than slog through Pentagon reports, many senators depend on Nunn to come up with a reasonable (if not always exciting) position. "You can't go too far wrong voting with Sam Nunn on a defense issue," is how one Democratic Senate aide puts it. The aide estimates that 20 to 30 percent of all Senate Democrats will cast their defense votes largely on the basis of what Nunn is doing.

Another key to Nunn's power is that Republicans can't accuse him of being soft on defense. Throughout the seventies, Nunn worked hard to tug his fellow Democrats to the right on SALT II and other military issues. Having established himself as tougher on defense than Jimmy Carter, Nunn had the credibility—unique among Democrats—to criticize Reagan's defense policies in the eighties. He used it sparingly until 1987, when he picked a fight with the Reagan administration over the interpretation of the 1972 Anti-Ballistic Missile treaty. The administration had dreamed up a "broad" interpretation of the treaty that gave the freest possible rein to testing space weapons for the Strategic Defense Initiative ("Star Wars"). In response, Nunn combed through the ABM

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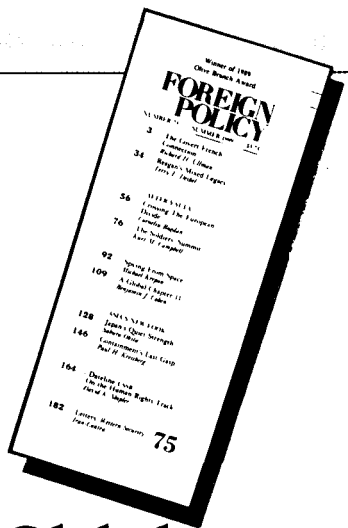

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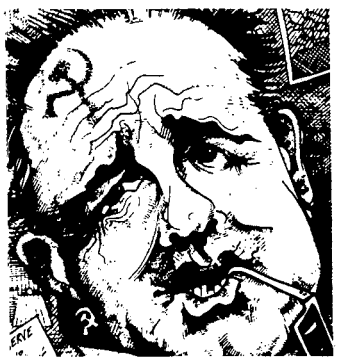

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Senate ratification hearing record and uncovered statements from former Defense Secretary Melvin Laird and others supporting the narrow interpretation. It was a classic Nunn maneuver: out-wonk the opposition.

By far the bloodiest battle Nunn has fought in the Senate was to reject the nomination of John Tower for defense secretary last March. Today, Nunn says that judged strictly on ability, Tower was "well qualified." That's too generous. As chairman of the Senate Armed Services Committee, Tower had been a mindless cheerleader for the defense buildup of the early 1980s—the very buildup that Bush's defense secretary would have to dismantle. Some have argued that Tower's hawkishness would have made him the ideal man to take on the procurement bureaucracy, but nothing in Tower's background suggested he had the faintest idea how to distinguish fat from muscle. Not every Nixon can find his way to China.

In any case, Nunn was right to conclude that Tower's personal conduct disqualified him for the job. Hard proof that Tower was an alcoholic may have been elusive, but the great volume of circumstantial evidence was enough to raise serious doubts. Just as valid, but less publicized, was Nunn's argument that Tower had behaved sleazily in signing up as a consultant to defense contractors on arms control issues after he'd returned from a stint in Geneva as arms control negotiator—even if it couldn't be proven that Tower had provided his clients with classified inside dope. This was Nunn at his best, abandoning for once his reliance on dry facts and pitching unashamedly to Americans' common values. In the best Richard Russell tradition, Nunn picked a battle worthy of risking his long-accrued respectability.

Nunn's efforts to rally fellow Senate Democrats against Tower brought bitter attacks from the Republicans, but he stuck to his guns with the same tenacity that had won him his TV set as a child. (The only notable lapse in Nunn's performance occurred after Senator William Cohen, a Republican on the Armed Services Committee and a long-time Nunn ally, took to the floor to read excerpts from Arthur Miller's *The Crucible*. Rather than attack Cohen's speech as pretentious nonsense, Nunn answered ploddingly that "there are a number of very significant differences between the committee's proceedings on the Tower nomination and the events in Salem," and proceeded to enumerate them.) If the victory added to Nunn's political luster, one hopes the damage to Nunn's bipartisan respectability added to his political wisdom by teaching him something Walter George never learned: sometimes being responsible means pissing people off.

Sam Nunn is having breakfast in the Senate dining room with six interns from his office, all from Georgia. Although Nunn speaks stiffly before a crowd, he has an easy manner in small groups like this. He offers the interns some practical advice about their time on Capitol Hill. Don't be overly impressed with the activity on the Senate floor, he says; hearings and committee meetings are more important.

Maria Blanca, a pretty blond senior from the University of Georgia, says her friends back home want to know if Nunn is going to run for president. "It's very unlikely," answers Nunn. "I think that my best opportunity to run, if I was going to run, was last time."

Just-the-facts Sam

During the past three years, Nunn has campaigned around the country for congressional candidates, helping to immunize them against the charge that Democrats are soft on defense. As the 1988 election approached, he twice announced he would not seek the presidency, and also removed himself from consideration for vice president. A cartoon from the *Augusta Chronicle* that now hangs on Nunn's Senate office wall nicely illustrated "the presidential plunge position of Sam Nunn." It showed Nunn stuck to a diving board, arms extended upward but unable to move.

Nunn tells the interns in the Senate dining room that he was 60 percent against running, 40 percent for. "I came to the conclusion that in order to run I would have to terminate my Senate activity—virtually terminate it—for about a year and a half to two years. The odds being against winning, I felt some of the things I was involved in I couldn't drop. I felt keenly about the ABM treaty. I could not drop that. . . .I knew I'd have a real problem with my own conscience having just been made chairman of the Armed Services Committee, being out there on the campaign trail virtually abandoning that position which I'd aspired to for a long, long time. . . .It probably wouldn't have been a political factor with the public, but it would have bothered me."

There may have been another factor behind Nunn's decision not to run: his conservative voting record on many nondefense issues. Nunn has supported a constitutional amendment to ban abortion, supported a balanced budget amendment, and opposed the Equal Rights Amendment. His civil rights record is spotty. Although he voted for the 1982 renewal of the Voting Rights Act, Nunn supported several weakening amendments.

Nunn is not too hot on economic fairness issues, either; he leans toward supporting the president's capital gains tax cut, provided it can be accompanied

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by other deficit-reducing measures. In other words, a tax cut for the very rich is fine as long as we make sure that other taxpayers pay for it. That's responsible, but it doesn't exactly foster social justice.

Some Democrats choose to forgive Nunn his conservative record on domestic issues because it's so obvious that his attention is focused elsewhere. The argument has some merit. Why should Nunn wage an uphill battle to persuade his constituents that a woman should have the right to choose abortion if the issue doesn't really engage him? Others think the party should be moving away from the old pat liberal answers—"liberal fundamentalism," to quote a recent paper issued by the evangelically centrist Democratic Leadership Council (DLC), of which Nunn is chairman. Again, this argument has some force: ideology shouldn't blind Democrats to the fact that many liberal solutions have proven ineffective (as regular readers of this magazine are well aware). But the answer isn't for politicians like Nunn to retreat to knee-jerk conservatism; it's to seek new solutions that discard what's bad about "liberal fundamentalism" while remaining faithful to the party's vision of a just society. Nunn has been too willing to support even mindless conservative causes like the constitutional amendment to ban flag desecration. Before making any bid to become a Democratic president, he will need to demonstrate that he believes in tolerance and equal opportunity and the dignity of the common man and woman. In other words, he will need to show more reverence for Democratic values.

One encouraging sign is Nunn's longtime interest in bringing young people of different social classes together to perform national service. Earlier this year Nunn and Rep. Dave McCurdy proposed a gradual replacement of student loan programs with a national service program. The proposal, developed by the DLC, calls for students to perform either civilian or military service in exchange for educational benefits worth either $10,000 a year (for civilian service) or $12,000 a year (for military service). Nunn's proposal has lately been watered down and combined with elements of other schemes proposed by Senators Ted Kennedy and Barbara Mikulski, but it's worth considering the boldness of the original plan. Where the Kennedy and Mikulski proposals were entirely voluntary, Nunn's, because of the student-aid link, was openly coercive. It generated considerable controversy within the academic community, which has come to believe that students have a God-given right to federally subsidized student loans with no strings attached.

"A new landmark
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Nunn should be applauded for doing something few Democrats since Robert Kennedy have been willing to do: demand that the middle class roll up its sleeves and get to work improving the lives of those who are less fortunate. Unfortunately, the spirit of Nunn's proposal was easier to cheer than its substance. Though perfectly defensible in theory, tying national service to student loans would create a problem in practice: the very rich, who do not need student loans, could exempt themselves from duty. This is probably a fatal flaw. As Arizona Senator John McCain puts it, "All of us owe an obligation to our society, or none of us do." The best way to institute national service—as proposed by McCain, *The Washington Monthly*, and regrettably few others—is to bite the bullet and make it compulsory for everyone.

Obviously Nunn has spent more time thinking about defense issues than he has about domestic ones. His most lasting mark on the Pentagon predates his chairmanship: In 1986, he helped then-chairman Barry Goldwater and Rep. Bill Nichols write the Defense Reorganization Act, a sweeping reform bill that, among other things, increased the power of the chairman of the Joint Chiefs of Staff, diminishing the problem of inter-service rivalry among the Joint Chiefs and, by extension, throughout the military. Even in the defense realm, however, Nunn is rarely daring. "A consummate centrist" who "thinks more technically than ideologically," is how defense analyst Gordon Adams describes him.

Nunn is clearly the master of countless technical problems related to the national defense. But they remain, well, technical problems. Nunn has advocated that the weapons used by member nations of the North Atlantic Treaty Organization have interchangeable ammunition. He has pushed for the creation of a Soviet-American nuclear risk reduction center. He has proposed a variety of incremental advances in arms control, for both nuclear and conventional forces. These are all worthy positions, but none of them seems as urgent as, say, the question of whether the U.S. should commit itself to building the Stealth bomber. Interestingly, the leading Stealth critic is not Nunn but Senator John Glenn. What is Nunn's position? Asked this recently in the Senate press gallery, Nunn rambled on about the need for some kind of penetrating bomber. But he prefers to avoid the question of whether to build *this* bomber. With responses like that, Nunn gives the distinct impression that he's waiting to see which way the wind will blow in the Senate.

Nunn has a Walter George-like, Washington insider's aversion to controversy. For example, although his argument against the Reagan administration's broad interpretation of the ABM treaty has happily kept the U.S. in compliance, Nunn professes not to have any firm views about the ABM treaty itself. In fact, he has proposed an antimissile defense system that he concedes might be in conflict with ABM. "I'm not saying that the ABM Treaty should never be changed," Nunn explains. "I'm just saying if we change it, it ought to be done either by amendment or, if we terminate it, it ought to be done under the terms of the treaty—keep faith with the original commitment we made as a nation." Nunn is right to protect the Senate's constitutional powers, but arguing such matters of high principle can become a dodge from debating the immediate questions. Should we stick with ABM or shouldn't we? Respectable people prefer not to stir passions on this subject.

Nunn has lately proposed rewriting the War Powers Act, which, since its passage as a reaction against the Vietnam war, has proven more controversial than useful. (Its provision requiring congressional approval of military action has been invoked only once, when Marines were sent to Lebanon in 1982.) But Nunn doesn't want to strengthen the bill to make it easier for Congress to participate in decisions about whether to send U.S. troops into war zones. He wants to weaken it so that Congress's reluctance to get involved in such decisions doesn't make it look ridiculous.

The question of intervention came up most recently in Panama, when the Bush administration failed to assist a coup against General Manuel Noriega. In typical fashion, Nunn denounced the Bush administration's "lack of policy guidance," but shied away from the question of whether U.S. troops should have supported the coup. "The bottom line would depend on what they ask for and whether it was feasible," droned Nunn.

On issues like the Tower nomination, the draft, and defense reorganization, Sam Nunn has shown some glimmers of vision. More often, though, he has absorbed himself in uncontroversial issues that, even when important, somehow seem too arcane for a man who seeks to be president. Nunn needs to lift his nose from the fine print. He needs to show that he's ready to move beyond modifying the policies of others. He needs to continue placing his cherished respectability at risk.

At the big round table in the Senate dining room, Nunn tells his interns that if you want to run for president, you need to have a "real agenda for the country. . . . I would never run for president simply because I wanted to be president more than any other thing." If Nunn does plan to run, he'd better get started creating that agenda. He has more work to do than he thinks. □

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NOTES FROM UNDERGROUND

Some surprising lessons about productivity and job satisfaction from the coal mines.

by Peter Gray

The stereotype of underground mining is that it is dirty, monotonous, brutal, exceedingly hazardous, low-paying work done by illiterate gnomes with no alternatives. Dirty and physically strenuous I'll concede, but the rest ranges from exaggerated to wildly inaccurate. I found mining interesting, aesthetically satisfying, fun, and financially rewarding. Who but a miner goes places daily that no one else has ever visited? And, these days, who but a miner gets to participate in a successful American heavy industry?

The first time I reported for work at a coal mine was in the middle of an icy night in the Utah mountains at the end of 1975. I had a brand-new belt (for carrying a self-rescuer, tools, and a lamp battery) and a hard hat, yellow to indicate I was a rookie. The mine was small and nonunion; its lamphouse was a battered semitrailer with a coal stove in one end, two benches, a lamp-charging rack, and a row of hooks for clothes.

There were three other young men on the graveyard shift, and when the boss arrived he immediately fired one of them for laziness and missed shifts. We got on an electric "ramcar," a low, flat vehicle used to scoop coal, and drove inside. I shoveled coal along the rib—the mine wall—for half the night; then we drove outside, changed the ramcar's eight tons of batteries, and hand loaded it with several tons of rock-dust sacks. For the rest of the shift, we sprayed the inside of the mine with powdered limestone, to dilute the coal dust and make it nonexplosive. Because of this dusting, most of the surfaces of any modern coal mine are white, not black.

Here are a few other facts that might surprise you about mines: While membership in the United Mine Workers of America has dropped by 50 percent over the past decade, the average underground miner's productivity has doubled (by comparison, total nonagricultural business productivity has increased by about 10 percent). The mine-mouth price of coal has fallen by 30 percent in real terms, saving consumers $3 to $4 billion each year and eliminating one third of all mine jobs. Most miners still on the job haven't suffered financially for these gains, however. Real wages have increased slightly during this period.

One thing everyone agrees on is that mines are dangerous. And these changes in industry statistics suggest they may be getting more so. After all, there must be some downside to this success story besides the many displaced workers. Maybe miners have been trading their safety for cash.

One night in Utah, we were rock-dusting back in the "return," an exhaust airway leading out from the active section of the mine. Clint drove the ramcar; Dale rode in the machine's bucket and loaded the

Peter F. Gray is an economist at the Environmental Law Institute. He worked in coal mines for three years.

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duster; I walked backward and sprayed dust on the roof, ribs, and bottom. The hydraulic-powered duster roared hypnotically. Dale fell asleep on the heaps of 50-pound sacks. From time to time the duster ran empty, and I had to flash my light at Dale's face to wake him up so that he would break a few more bags into the hopper.

It was pleasant, easy-going work. I meandered along the 20-foot wide "entry" (not "tunnel") and painted the mine white with broad strokes.

Just as I backed out of an intersection, there was a tremendous crash and a blast of air. The roof of the entire room fell, leaving behind a dome that arched above the ends of the four-foot roof bolts. The outer edge of the fall was two feet from my toes. Clint stopped the duster, and we waited for ventilation to carry the cloud away. There was a huge mound of gray shale slabs. We made a brave joke or two, and Dale swore for the hundredth time that he was going back to work for the railroad. Then we started the duster and continued backing out. Dale stayed awake for the rest of the shift.

Many miners have horror stories like that. But even so, the fatality rate in mines has fallen by two-thirds since the mid-1970s. Coal mining *is* among the most hazardous of professions, but popular notions exaggerate the danger. At work, a miner runs three times the annual risk of dying that the average citizen faces while driving a car. But since the average American spends less than an hour each day on the road, coal mining is several times safer per hour. Given the fearlessness with which most people climb into a car, it's amusing to consider their terror of mines. But cigarette smokers win the prize for calling the kettle black; the risk they run in terms of expected loss of years per lifetime is roughly seven times greater than the one miners face.

The industry has made gains in safety despite miners' habitual cheating on state and federal regulations. In 1977 I saw this first-hand when I went to Colorado to work for Mid-Continent Coal & Coke Co. On entering the mine, we traveled the first half-mile up the steep rock tunnel in a diesel mantrip, the personnel carriers that miners use to get to and from the "face," where they actually extract the coal. Because of heavy "overburden"—the several thousand feet of rock overhead—the pillars of uncut coal that act as supports were gradually crushed, the bottom "bounced" upward, and the entries soon became too low for a mantrip to pass. So from the top of the passage, we had to walk two or three miles down along the steeply sloping seam to the working sections.

At the end of our shift, when we traveled towards the surface, we rode the conveyor belt that transports coal out of the mine. In some places the belt ran so close to the overhead rock that we had to lie down, push our buckets and hardhats ahead of us, and press one cheek flat against the black rubber. Traveling this way was fast, comfortable, convenient . . . and illegal. Belt-riding can be legal if special boarding platforms are built, the belt is running at a crawl, there are no unusual hazards along the way, and the operation is supervised. In other words, belt-riding can be legal once it's not worth the trouble.

Rock-dusters at Mid-Continent had a big job. The mine had a soft coal bottom and high methane levels, so they had to spray a lot of dust to prevent ignitions. An explosion killed 15 about a year before I arrived, and another took nine after I left—a major reason this is one of the highest-paying mines in the country. Dusters ranged all over the mine on the graveyard shift, carrying hoses, connectors, and nozzles. The belt saved them a lot of difficult hiking.

A literal-minded, fundamentalist "green hand" once joined the dust crew. When he heard that belt-riding was illegal, he refused to do it on religious grounds.

"Listen, even God can't see through 3,000 feet of sandstone," his partners told him. "You can get away with it." Still he refused. "Okay," they said, "do what you want, but if you don't keep up with us, we'll get rid of you." For a few days, the conscientious objector ran along the belt, up steep slopes in gluey wet coal and rock-dust, dragging his hose behind him. No one knew if his partners' theological reasoning finally swayed him, but one day, there he was, riding the belt with the rest of us.

Mine kampf

Surprisingly, mine safety seems to have as much to do with mineowners' desire to maximize profits as with government oversight. In 1987 the Bureau of Mines released a survey of 25 mines that it identified as having the most productive continuous-miner sections in the country. These crews cut coal at 3.3 times the national average of 368 tons per section shift, pulling out between 650 and 2,800 tons. Although accident rates for these 25 Wonder Mines were not published, their rate of safety citations per inspector-day was less than one-third the national average.

For some years, the most productive mines have tended to have the best safety records. In the survey, one superintendent commented, "I can't prove this, it is a feeling and I believe that the more you do toward safety, the more efficient you get and the more productive you get . . . . technology will give you an edge, but without our safety program it wouldn't work." Plain and simple market logic demands mine safety. Firms compete for the best miners by pointing

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Photo courtesy of American Mining Coalition.

to their safety reputations as well as their wages. The most skilled miners tend to be the best at avoiding injury, and so on.

In addition, carelessness in the mines results in immediate economic loss. Safety violations can carry hefty cash penalties, but the real cost comes when a mine is shut down due to a serious accident. After a fatality, a mine will be closed for an investigation that lasts several days. A single death could drive a mine out of business.

In the Bureau of Mines survey, some superintendents credited the 1969 Coal Mine Health and Safety Act and the Mine Safety and Health Administration (MSHA) with improving working conditions. Such praise smells fishy to me. I have heard few kind words about inspectors from either managers or miners. One general manager of a highly productive operation told me that the MSHA's rules cut productivity without enhancing safety. "Some of their regs make sense, and would be our policy anyway. Some of them are archaic, some are just plain silly, and some don't go far enough. When you talk about high-productivity mines having low citations per inspector-hour, that's a meaningless measure; it has little to do with safety. Those guys come through and give us citations for having the wrong color toilet paper in the damned Porta-Potty, and then miss the most dangerous situation in the mine."

A few years after I started mining, a Porta-Potty regulation came down from "the feds." Before the Porta-Potty era, we urinated at will, anywhere except in the "kitchen," where we ate lunch. We conducted our more complicated personal business back in the Return. The only taboo was against using intake airways, in order to spare the noses of the crew. After the Porta-Potty ruling we still used the Return, but we had to carry a toilet with us when we advanced or retreated. Occasionally a green hand would actually *use* the thing, but only once. After all, the penalties were severe—the miscreant suffered ridicule from the rest of the crew and had to tote the toilet by hand two miles to the portal and clean it out.

Les Minerales

Safer working conditions alone can't account for the industry's leaps in productivity. In many enterprises, technology is the factor behind improved performance; but few industries have been less affected by automation and electronics than underground mining. In my experience, innovative incentives and flexibility in management-labor relations were the keys to getting coal out of the ground faster.

In 1981-82, in the Main East section of the Pinnacle Mine in Utah, our crew was lean and mean. There was a boss named Jed Giacolletto, an operator and helper to run the continuous miner (a monstrous machine resembling a 50-ton steel lobster), two roof-bolters, two shuttle-car operators, and an operator for the diesel mucker, a long, low front-end loader. No

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mechanic—we did our own repairs. No electrician—we spliced our own cables. Our hourly wages were the highest in the district. We got a cash incentive for each ton of coal we produced. As a result we mined at least 20 percent more coal than we would have otherwise. Although Pinnacle was small—not benefiting from economies of scale—our productivity was among the highest in the district.

At the end of swing shift (midnight), there was often some work that had to be done before the next production shift could start cutting in the morning. The oncoming graveyard crew already had to do rock-dusting, cleanup, and routine maintenance. If we left a big job for them, production in the section would be idled for an hour or more. So, at the end of the shift, Jed would start bidding:

"I need three men for two hours. I'll pay for three hours." Back then, that meant about $50 in overtime wages; today it would run closer to $75.

"Not tonight. Not worth it."

"Two hours? Forget it —I have more money than I know what to do with anyway."

"How about two of you? It shouldn't take more than three hours, and I'll give you five no matter how soon you finish."

This sort of bartering between miners and bosses was a routine part of working at the Pinnacle Mine. We even had a labor black market in order to dodge overtime laws: We'd trade one Saturday of unreported work to get a subsequent four-day weekend.

The Pinnacle spot market once broke down on Jed's crew for two weeks. Each night we watched the time and shut the section down as early as possible. Jed made the choicest offers we'd heard, but there were no takers. We clung to the mantrip and drove at full speed over bumps and ruts, hopped out as soon as we cleared the portal, and ran for the lamphouse. We threw our lamps into the chargers, sprinted through snowdrifts and coal piles to the bathhouse, showered, changed, and piled into the van for the ride to town.

Why the mad rush and the rejection of overtime? One night we had randomly tuned in a faint AM station from somewhere in Texas, and there was a radio play of *Les Miserables*, starting each night after our shift ended. Normally, the entire crew except for the driver was stretched out asleep on benches in back of the van. Now, everyone hunched toward the front, straining to hear. Naturally, the episodes in the Paris sewers were the most fascinating.

In the 25-mine survey, size ranged from 15 workers to 887. Labor productivity of the eight smallest mines (average size: 26 workers) was 27 percent higher than that of the eight largest ones (average size: 398 workers). Of the 25, the highest-production mine was also the smallest. If physical or technical variables accounted for the difference, they were not evident in the survey. The small mines had a 10 percent advantage in "hours at face," but a 17 percent difference in seam height favored the large mines, and their roof quality was rated better.

Vengeance's mine

A larger mine has other advantages. Overhead costs are lower, and the flow of coal is more consistent. Economies of scale should favor the evolution of big mines, especially now that coal is being shipped across continents and oceans to large buyers, rather than being sold to local consumers. But average size has dropped from 80 miners 10 years ago to fewer than 50 now.

This may be because the smaller the mine, the more flexible the work environment. Without a lot of organizational drag, crews are freer to come up with ways to boost productivity. One of the incentives we invented at Pinnacle was the Mine Record Dinner (MRD). Each time we set a new record (measured in cars of coal), the company took everyone, with spouses, to the restaurant of our choice. I was the unofficial crew strategist, so I believe it was superior strategy that made Jed's crew the clear leader in Total Accumulated Dinners.

When the MRD program started, the mine record was less than 130 cars per shift, and we didn't expect to get far beyond 140. Within less than a year, we had pushed past 220. One hundred sixty cars was a good day, but nothing to brag about. I doubt I'll live to see again so much leverage exerted by a few platefuls of lobster and filet mignon.

After the first records were set, it became clear that further improvement would require keeping the section running through lunch. Lunch shutdowns cost far more than 30 minutes of full-speed coal cutting. A full stop threw off rhythm and coordination; several minutes were required to walk each way to the kitchen; our machines broke down more readily after they had been sitting still. Lunch was costing dozens of tons of coal per shift.

The trade we worked out with Jed was embarrassingly good. We added 18 percent to our gross pay, without spending an extra minute at work! For an hour of overtime pay each day, all we had to give up was half of our lunch break. We didn't just shut down for 15 minutes instead of 30. Through careful planning, we kept the section running smoothly while one or two of us at a time went for lunch. None of the other crews opted for this routine; old traditions die hard. During record attempts other crews ran through lunch, but continual practice gave us an advantage.

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Incentive schemes have spread rapidly during recent years. Many mines give bonuses based on attendance and safety performance, as well as tonnage. But for "free-rider" reasons familiar to game theorists, incentives don't work well in large groups where teamwork is essential and individual performance is difficult to monitor. That's why the most dramatic difference between large and small mines is in bonus schemes. The average annual bonus in the survey's 8 smallest mines was more than 5 times that of the largest 8. The 18 mines with incentives produced 35 percent more than the 7 without them, and bonuses averaged 14 percent of payroll.

A West Virginia mine cited in the survey uses a novel means of reducing costs and maintaining a constant production rate. The bonus scheme is revealed in a table footnote: "Crew produces required tonnage and takes rest of day off." Further descrip-

WHO'S WHO

Those who think the Reagan administration's lax enforcement of antitrust laws was a major factor in the merger mania of the 1980s welcome the news from a recent conference at Harvard Law School where **James Rill**, the assistant attorney general who heads the antitrust division, and **Janet Steiner**, the chairman of the Federal Trade Commission, announced that the Bush administration would toughen enforcement of antitrust laws. . . .

If you watched the Watergate impeachment deliberations of the House Judiciary Committee you will recall **Caldwell Butler**, then a congressman from Virginia, as one of the more impressive participants. **George Bush** was planning to name Butler to head the Legal Services Corporation. But according to the *Washington Times*, which has excellent sources in the conservative movement, right-wing objections have caused Bush to abandon the Butler nomination. . . .

An important quote in terms of understanding the Bush White House got buried in the *The Washington Post*. It was from a source identified as "a Republican familiar with the workings of the Reagan and Bush administrations," who said:

"A lot of the way the White House operates is based on the leaks thing. I think you know how obsessed George Bush is about leaks. What you don't know is the fullness of that obsession. It's right up there as one of his core values. You know, service, religion, leaks."

"You don't understand," the source added, "how much time they spend making sure Bush's secrets stay secret and then doing a who-shot-John when they don't."

Among the Bush nominations that encountered resistance in the Senate were those of **James Cason** to assistant secretary of Agriculture for forest and soil conservation and of **Victor Stello** to head the Energy Department's nuclear weapons program. Describing Cason's tenure in **James Watt**'s Interior Department, a Senate staff member says, "Whenever there was a choice between private interests and the public interest, he came down on the side of private interests." His nomination was rejected in mid-November.

As director of the Nuclear Regulatory Commission, Stello is said to have been excessively permissive toward nuclear plant safety violations, keeping secret, for example, allegations of drug use and safety problems at an upstate New York nuclear facility. **John Dingell**, chairman of the House Energy and Commerce Committee, says, "The only benefit of moving Mr. Stello to the Department of Energy is ridding NRC of Mr. Stello." His nomination, although in trouble, was still pending at the time we went to press. . . .

Martha O. Hesse, the departing chairman of the Federal Energy Regulatory Commission, which regulates such domestic matters as natural gas pipeline fees, spent $27,216.14 in government funds to travel to such places as Paris, London, Amsterdam, and Hong Kong, according to the *Legal Times*. . . .

To last month's list of environmental good and bad guys at the Department of the Interior, **John Turner**, director of the Fish and Wildlife Service to the white hats, and **Cy Jameson**, director of the Bureau of Land Management, and **James B. Ridenour**, director of the National Park Service, to the blacks. . .

Ins—*Agriculture:* Assistant Secretary for Economics—**Bruce L. Gardner**. *Education:* Assistant Secretary for Post Secondary Education—**Leonard L. Haynes**. *Energy:* Assistant Secretary for International Affairs and Energy Emergencies—**John J. Easton**. General Counsel—**Stephen A. Wakefield**. Assistant Secretary for Conservation and Renewable Energy—**J. Michael Davis**. *Health and Human Services:* Surgeon General—**Antonia C. Novello**. *Justice:* Assistant Attorney General—**Stuart M. Gerson**. *State:* Ambassador to Israel—**William Andreas Brown**. Ambassador to Spain—**Joseph Zappala**. Director General of the Foreign Service—**Edward Joseph Perkins**. *Agencies and Commissions:* Deputy Director, Peace Corps—**Barbara Zortman**.

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tion appears in the text: "The company had a limited coal market, and so when the unionized crew reached 800 tons for the shift, they could go home with pay. They usually got off work two or three hours early. The men said they preferred this because it was a reward received the same day instead of waiting a week or a month. The free time was considered more valuable than money."

A small investment by the company can go a long way. At Thanksgiving outside Pinnacle, a company pickup was parked next to the portal. The accountant stood in the back and handed each of us a large turkey. For Christmas, we got a turkey, a smoked ham, and a fifth of scotch. The effect of such gifts on morale cannot be measured, but undoubtedly they paid for themselves many times over in hauled coal.

I had a year's experience when I applied to work for Mid-Continent in Colorado, so I was hired immediately, in the middle of a winter month. But there were odd delays in scheduling my physical and completing the paperwork. I didn't start work until the second or third day of the next month. I thought nothing about it—until vacation time the next summer. We were supposed to earn a day of paid leave for each month of employment, so when I got seven days instead of eight, I assumed someone had goofed. At the payroll office I was told that there was no mistake.

"Read the contract."

"I read the contract. One day per month. I've been here eight months."

"Check it again. You get one day for each *complete calendar month.*"

Upon checking with other miners, I found that they had all been hired in the first week of a month.

"That's Mid-Continent for you." they shrugged.

I'm not the vindictive sort, but I made *certain* I reduced production by at least one man-shift worth of coal. Stingy management tactics may backfire more surely underground than anywhere else. There are 1,001 ways for a miner to reduce productivity without risk of detection.

According to interviews with management in the 25 Wonder Mines, the primary determinant of productivity is *not* on the following list: union status, salary, physical mining conditions, incentive schemes, or particular machinery and methods. In every mine, an attitude of respect and trust, a "sense that the employees were the company's most valuable resource" was considered the overriding factor by both labor and management. Part of the trust came from a blurring of the line between the two. Trust and cooperation grew not from feel-good seminars or "quality circles" but from simple things such as a single bathhouse used by both bosses and miners. Open sharing of information on company strategies and finances is another way miners are included in overall operations.

One manager of a set of three mines told me, "There are lots of coal seams around this country, but none of them are worth a damn if you don't have good miners to get the coal out onto the ground." This manager said that the company was about to exceed a million tons per year, with a workforce that has grown from 30 to 100 in four years, and he wondered how he was going to maintain morale. "I've seen some good mines that have gone bad right after they cleared a million tons. I'm not sure why it is, but I think it has to do with becoming too bureaucratic." I asked whether having three small mines, rather than putting everyone in one big operation, could help avert the negative side of growth.

"Yeah, that's one reason for doing it this way. We give each mine a lot of autonomy, so people have a stake in how the place runs. And I'm keeping my door open. I have people coming in here several times a day for one thing or another. It takes a lot of time, but it's worth it."

Underground economies

Coal mining has responded so well to adversity that few outside the industry know it has been through hard times. During a period of decline in the price of the product, miners' incomes have risen, work conditions have improved dramatically, and cooperation between labor and management has been better than ever. Of course, there are counterexamples. A bitter strike against the Pittston Coal Group, involving 1,700 UMWA miners in Virginia, West Virginia, and Kentucky, has been raging for eight months. The first major strike in the coalfields since 1985, it may prove to be a make-or-break struggle for the UMWA; it has already demonstrated the folly of separating managers from miners. The Pittston Group, which sparked the strike by trying to cut back health benefits, is based in Greenwich, Connecticut, a world away from the Pittston mines.

But overall, industry statistics tell a story of not just survival, but success. Part of the gain in productivity can be traced to labor market conditions. Because of declining employment, mine operators can be more selective, and turnover has dropped to almost zero.

Perhaps the root of coal's success is that it has not been protected from competition. Lack of import barriers is not due to noble forbearance on the part of the industry, but to the fact that the U.S. imports a negligible 0.002 percent of its supply.

Coal has not fed at the public trough of price sup-

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ports and bailouts for several reasons. Operators are still tainted with the old robber baron image; coal is not viewed as an essential commodity the way grain is; the industry is on the defensive over environmental issues; and miners don't occupy the warm, fuzzy place in the national heart that say, farmers do. Perhaps this status is the source of miners' spirit and independence. In any case, when coal miners saw falling prices, they got the message that they were not going to be rescued. Many mines and some companies have gone bankrupt during the past decade, but no single failure has been close to the proportions of Penn Central (or Lincoln Savings and Loan).

We may not need to go to Japan to learn more effective management; some good lessons can be found underground. The clear message from the most productive mines in the country is:

➤ Find ways to reward people for doing superior work, in the smallest groups possible.

➤ Take a tip from General Patton and tell people *what* to do, then let them figure out *how* to get it done. Don't give orders for the sake of "being in control" or for a lack of anything better to do.

➤ Regularly share company plans and financial information with workers, even if at first they don't understand everything. Miners, few of whom have Harvard MBAs, are surprisingly astute when they see their own fortunes at stake.

➤ Encourage employees to have fun and to treat their work as a challenging game. Making production into a sport captures a worker's attention and stimulates creativity.

➤ Give employees more trust than they seem to deserve, and never, never try to cheat or deceive them.

➤ Always give people a little more than they bargained for. Small favors from an employer yield high returns.

➤ Remember that "technological advance" can come in the form of better methods of learning, communicating, and thinking—not just in new machines and materials.

➤ Don't cling to unnecessary rank and title distinctions. A friendly, accessible manager will earn more genuine respect than one who hides behind a huge desk and a platoon of receptionists.

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The Success Story of the War on Poverty

If it's really a Head Start, why are we still dragging our feet?

by Liza Mundy

They never would have filmed "Leave It to Beaver"—or even "Sesame Street"—near the intersection of Florida Avenue and Benning Road, in southeast Washington. Once-elegant townhouses are battered and boarded up. Groups of men hang out at a bus shelter waiting for something to come along. On the sidewalk nearby, a small girl, maybe four years old, stands by herself in a bright pink jacket, watching the traffic. Some tenants of a large housing project have hung plants in their windows and put patio furniture on their porches, but it's hard to imagine a barbecue in this neighborhood, where drug dealers are battling for turf vacated by the arrest of Rayful Edmond III, allegedly Washington's foremost drug entrepreneur. To an adult, the scene is hostile enough; to a child, it testifies grimly to what life holds in store. On a cold September morning in this neighborhood, 13 kids gather in a warm, spacious basement room—all of them from poor families, all of them about four years old, all of them here for a Head Start preschool program that offers a half-day of sanctuary from the life outside.

It's the beginning of the school year, so most of the children are just getting the hang of things. Their teacher, a young black woman named Joann Ramsuer, sits cross-legged on the carpet handing each child a "personal symbol," a construction-paper square, triangle, or half-moon that makes the child feel special while he learns about colors and shapes. On receiving his symbol, each child names the area he's chosen to play in for the next half-hour (one rule of Head Start is that children make their own decisions, however small). After some bewildered standing around, most of the kids head for "waterplay," a large sink filled with green water and different sized household containers which, as the children pour water back and forth, help them grasp the notion of quantity. At Head Start, no activity is without a purpose.

As the morning passes, the kids warm to their environment—so much so that some begin to bicker and cry. Whenever things heat up Ramseur or the program director, Mattie Jackson, tells them to "use your words" instead. Head Start kids are not as used to articulating their feelings as other children, so teachers try to coax these skills along. The same goes for self-esteem. As she circulates around the room, Jackson makes a point of telling children, "I like the way you're waiting for your food," or "I like the way you stand in line."

Inside, the kids hone their "fine motor skills"; outside, during a play period, they exercise their "gross motor skills" on a jungle gym. At lunchtime they work again at self-reliance, setting their own places, struggling to slice and butter a corn muffin, lining up afterward to scrape their plates. While the kids brush their teeth, a social worker comes in with a mother and child she has pulled off the street, to show them

Liza Mundy is a reporter for States News Service.

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the center and put the child on a waiting list. The kids fetch blankets and bed down for a nap.

This is pretty much how Head Start works in all 1,287 centers, in churches and cast-off elementary schools, cities and rural communities. Its aim is to prepare disadvantaged children for school by teaching them basic concepts that most kids have absorbed by first grade. It gets them accustomed to a social environment and persuades them to look at learning as something fun—and in the process checks their teeth and eyes, inoculates and feeds them. Teachers come from the childrens' world, often from their own neighborhood, and understand their needs in a way middle-class social workers can't.

While some parents undoubtedly use Head Start as an opportunity to watch more television, few get off scot-free. Head Start staff visit the children's homes several times a year to discuss each child's progress. They ask parents to work as aides in the classroom, serve on center planning boards, and assist with field trips and their children's "homework"—making colored slips, say, to help them practice distinguishing red from orange. Some centers offer parents classes in child care, English, health, and nutrition.

No preschool can single-handedly turn a crack baby into a college graduate, but there are plenty of things it *can* do. A recent study has offered some evidence that in the long run, preschool training can reduce welfare dependency, teenage pregnancy, and delinquency, while boosting a child's chances of graduating from high school and going on to college or vocational school. In the short run—charts and statistics aside—it teaches kids to tie their shoes and gives them some room to play and a little extra affection. Today, Head Start has become a fixture in low-income neighborhoods—so much so that many people take it for granted. Many have also forgotten how the program began, calling Lyndon Johnson's War on Poverty a complete failure and Head Start a success in the same breath. In its modest way, Head Start proves that programs designed to fight poverty can not only succeed but thrive—that the War on Poverty "failed" because individual programs were bad or inadequate, not because government can't assist the poor.

Tips for tots

Head Start never really developed. Instead, it sprang, fully grown, from the brows of its creators. At its founding in 1965, the program had two key advantages: a design that was widely applicable and a federal administration that was willing to apply it widely. It was the brainchild not of "educators," but of diverse child psychologists, social workers, doctors, and nurses called over to the Office of Economic Opportunity in January 1965 by Sargent Shriver. At a time when public kindergarten was virtually nonexistent and preschool unheard-of outside of a few experimental programs, Shriver's board came up with a plan that combined creative teaching methods with providing meals and medical attention; it mandated small classrooms and demanded that parents be involved in running the program (something that public schools usually resisted). Another aim of the program was "acculturation"—bringing kids into the mainstream—but the more widely publicized goal was to raise IQs, satisfying those among the Johnson administration (including Shriver) who looked to numbers for proof of success. The creators' imaginations didn't extend to nomenclature; originally, their program was to be called "The Program to Enhance the Opportunities of Disadvantaged Children." Shriver, ever the consummate salesman, was horrified. At two o'clock the following morning, his brainstorming staff came up with an alternative: "Head Start."

While some of the planners wanted to start small, Johnson was anxious to prove to the nation that the poverty war had begun. In early 1965 he and Shriver decided that Head Start would start soon and start *big*— serving 100,000 children in 300 counties the first summer. In May, the president announced the new program at a Rose Garden tea, telling his audience that thanks to eight weeks of preschool, "Thirty million man-years—the combined lifespan of these youngsters—will be spent productively, rather than wasted in tax-supported lethargy."

Not even Johnson anticipated the surge of public interest. The common sense of the idea came across immediately, both to poor parents and to more affluent ones who would eventually copy the notion for their own offspring. Faced with thousands more entries than he had anticipated, Jule Sugarman, Head Start's first director, beefed up his staff and processed them all. Johnson told Sugarman to "go spend," and he did. That first summer, Head Start wound up serving over half a million kids in church basements, community centers, and disused schoolhouses in 3,600 counties. Plans were immediately laid for a more ambitious eight-month program, and by its second year Head Start was serving an all-time high of 733,000 kids—establishing the program so firmly nationwide that it became impossible to destroy. For the next few years it enjoyed a honeymoon period rare among poverty programs, and at the same time assisted the civil rights movement by reinforcing the idea that every child, black or white, is entitled to a decent education.

One of the main strengths of the early Head Start

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was that while its centers were administered by community sponsors (generally community action agencies), they drew funding directly from OEO. Thus they bypassed (at least in theory) control by recalcitrant governors, state legislators, and school bureaucrats. By hiring a combination of parents, trained teachers, and members of the community who were on their way out of poverty, Head Start intended to provide kids with real-life role models. In 1965, the concept was either earthshaking or horrifying, depending on who you were. In the South, many white school administrators refused to open their facilities to Head Start for the summer, and organizers ended up running most programs out of black churches.

Soon, congressmen began hearing complaints about Head Start from local politicians who had originally thought it would be okay to offer poor kids hot meals and cast-off books, only to discover that Head Start was creating a power base independent of their patronage. In Chicago, Mayor Daley won control of hiring for Head Start and the local community action agencies. But the most notorious fight came in Mississippi, where Senators James Eastland and John Stennis set out to destroy the Child Development Group of Mississippi (CDGM), a Head Start group made up of civil rights activists who had worked on voter registration during "freedom summer" the year before.

Lavishly funded by OEO (to the tune of $1.5 million), CDGM members encountered great hostility from white Mississippians, who bombed their buses and houses and threatened their teachers. Stennis began to exercise his authority as a ranking member of the Senate Appropriations Committee, putting through an amendment declaring that *federal* administrators would be held responsible for any irregularities in local Head Start programs. Johnson and Shriver were unnerved. Rather than assist the group with its muddled records, OEO used CDGM's haphazard bookkeeping as an excuse to kill its funding and create another Head Start sponsor, Mississippi Action for Progress, which was tied in with more moderate segments of the black community including the NAACP. The immediate upshot was that the program became the bailiwick of middle-class blacks rather than poor ones, and more palatable to Mississippi's old white guard.

Ultimately, that old guard's worst fears were realized. CDGM won new funding from Congress, and the two groups competed for Head Start, each controlling a number of centers around the state. Many of the black leaders who cut their eyeteeth on that struggle went on to national careers. Among them was Marian Wright Edelman, a young lawyer whose early battles with Washington on behalf of CDGM led her to create the Children's Defense Fund, now the strongest lobbying group for children. But even for those who did not become national figures, Stennis was right in fearing that Head Start would become what it has remained: an alternative source of jobs and a powerful community rallying point.

Et tu, IQ?

As in Mississippi, Head Start has been dogged throughout its history not just by external resistance but by disputes among its backers. Some poverty warriors felt a little, well, embarrassed by Head Start. Primed for revolution, the more radical community action leaders weren't overjoyed to learn they'd be fighting a war with crayons and colored paper. They saw the aim of providing "services" to poor children as too moderate, too middle-class, too square. Other divisions began to appear in the poverty camp. Community action staff members viewed Head Start as a competitor for OEO funds. And Head Start generally enjoyed greater public support than other community action programs, which targeted older (and therefore less clearly benign) groups.

But probably most divisive was the question of whether Head Start was an education program or a vehicle for "empowerment." Jargon aside, it's always been both. From the beginning a central tenet of Head Start has been "up and out"—meaning that a parent might start as a volunteer, then become a paid teacher's aide, a teacher, or even return to college, and ultimately enter the middle class. While up and out didn't work for everybody, Head Start's archives are full of success stories like Maxine Waters, a former welfare mother who is now a California assemblywoman and activist for the poor. This goal of empowerment was noble, but it introduced the constant (and still present) danger that Head Start could devolve into a jobs program. And in fact, that has often happened when CAP administrators failed to make teaching a priority in assigning Head Start jobs.

None of these internecine quarrels helped much when the first blow fell in 1969, in the form of a study conducted by the Westinghouse Learning Corporation. All along, Shriver had been adamant about tracking the program with studies, and at one point asked Sugarman to design a test that could show him the IQ gains he was getting per dollar. But Westinghouse didn't produce what Shriver wanted; it concluded that any IQ gains among Head Start children dissipated by third grade. The press scooped up these findings, and suddenly the word was out that Head Start was a "failure."

On top of this, Head Start suffered from Johnson's absorption in Vietnam. Funding dropped from $350

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million in 1967 to $316 million in 1968. When Nixon took office in 1969 and Head Start moved to the Department of Health, Education and Welfare, things looked even worse. On being brought down from Yale to replace Sugarman, Dr. Edward Zigler says he discovered a three-year Head Start phaseout plan prepared by the Office of Management and Budget. But Zigler found an ally in HEW Secretary Elliott Richardson. Moreover, Head Start by then had a strong grass-roots constituency that guaranteed at least some congressional support. Through intensive lobbying, Zigler managed to keep the program alive.

You can do all you want to improve the quality and quantity of Head Start, but without competent and sympathetic teachers in the public schools, the early benefits will quickly fade.

Funding rose only incrementally between 1971 and 1972, and in 1973 not at all. The number of children served dropped steadily, reaching 333,000 in 1977. Despite Jimmy Carter's sympathy for the program, the severe recession meant Head Start was still limping as it entered the Reagan era—just as studies were showing better results, and, more important, as Head Start's implementors were discovering that the program's real contribution lay in enhancing children's health, motivation, self-esteem, and social skills: what Zigler dubbed "everyday social competence." As for the drop in IQ scores, too few people noticed one obvious reason behind them—the public schools.

You'd think it wouldn't take a rocket scientist to figure out that if kids leave Head Start doing well and then begin doing poorly in elementary school, the schools probably aren't pulling their weight. Unfailingly, though, Head Start has taken the rap from policymakers for a public school system that's indifferent to the children of the underclass.

Not that this obstacle wasn't anticipated. In 1967—before Westinghouse—Sugarman and his co-director, Dr. Julius Richmond, created a program called Follow Through to make sure that public schools continued applying Head Start methods in the higher grades. Follow Through was doomed from the start, mostly because it came into being when much of the momentum and the money for the poverty war was exhausted. And while Sugarman kept Head Start away from the Office of Education during the move to HEW (merging it instead with the Children's Bureau) he lost Follow Through to the public school bureaucrats. The same schools that were already doing a sorry job with lower-class kids were expected to apply for a Follow Through program. Consequently, in the 20 years of its shadowy existence, Follow Through has never been more than a weak pilot program. It now serves only 20,000 children—with no guarantee that any of them were enrolled in Head Start to begin with.

School of hard knocks

This lack of follow-up attention meant that Head Start kids usually had only one or two years of learning through play-oriented activities under the care of sympathetic teachers. After that, they entered a public school system that catered to neat, well-behaved, highly motivated kids. The preschoolers had gotten a head start, but that didn't mean they'd caught up. Moreover, Head Start training didn't always go down well with public school teachers, who were used to docility and subservience in class.

Dr. Martin Deutsch, who pioneered a program similar to Head Start in the 1950s, found in his follow-up studies that teachers were often annoyed by the curiosity his program fostered, responding to the children's questions with hostility. Deutsch found this attitude had a "depressing impact" on the kids and their test scores. Dr. Irving Lazar, who directed a series of long-term studies of Head Start published in the 1970s, came to the same conclusion. "Many teachers really didn't like those Head Start kids. They were noisy and demanding and asked questions—they didn't come in terrified and sit down quietly. Head Start programs are relatively free places where kids have a lot of choice. A lot of public school teachers really felt those kids were awful, and complained about them."

Besides uppity kids, schools were faced with the new and unsettling phenomenon of uppity parents.

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Many poor parents had themselves been unhappy in public school, so their instinct was to avoid it as adults. Head Start, in contrast, gave these parents the exciting and novel idea that they could assist in their child's education—something that schools, accustomed to keeping parents at bay with a couple of inconveniently scheduled PTA meetings per year, have always fought. "We tended to talk to the parents on the basis of informing them," said Sam Sava, executive director of the National Association of Elementary School Principals, "but Head Start made an all-out attempt to use the parent as part of the teaching process."

Sister Geraldine O'Brian, who runs a Head Start program for migrant families up and down the East Coast, described the case of a little girl who returned to Florida after the Virginia apple harvest and enrolled in first grade at a new school. She was summarily dumped back into kindergarten. When the girl came home and explained what happened, her mother fished out the developmental chart Head Start prepares for each child, then summoned her courage to visit the school. O'Brian said the teacher explained, "We know migrant children don't do well." Whereupon the mother asked to know whether her child's chart had been reviewed. The teacher said it hadn't been. The girl returned to first grade.

Lately, the relationship between Head Start and the public schools has changed—but not for the better. Since the publication in 1983 of the Education Department's *A Nation at Risk*, the schools have become obsessed with testing students and imposing a strict curriculum early. Now, kids leave Head Start and get hit with a standardized test. They trade a supportive environment for a compulsively rigorous one in which the teacher, confronted with 30-odd youngsters, is terrified of losing her job as a result of low test scores.

The situation makes for a classic vicious circle: an influx of bad teachers has caused school bureaucrats to grope for a way to monitor their performance; the solution—standardized tests, which encourage test-oriented instruction—ensures that the teachers will continue to be bad. Particularly in the early grades, when children are growing at widely different rates, this emphasis on numbers is all wrong. And the ones most vulnerable are the Head Start kids, who generally score lower on tests than their peers and are quickly stuck in the ranks of the "slow learners," there to stay.

This year, the National Association of State Boards of Education issued a report criticizing public schools for "an obsession with producing short-term, trivial results" and spending too much time teaching students how to take tests. "We heard disturbing testimony about the harmful effects of increased testing on young children, about class sizes of 33 children in kindergarten, and about the difficulties Head Start parents encounter as they seek to continue active involvement in their child's education in the public schools," wrote NASBE's president, Richard Owens. Citing Head Start as the "national leader in preschool education," NASBE recommended that schools create an "early childhood unit" to educate children between four and eight with the more gentle, less judgmental methods Head Start has used all along. All this praise is great—except it's damaging Head Start. The national explosion in preschools modeled on Head Start has created intense competition for scarce staff. With salaries close to the poverty line, Head Start centers tend to lose out. "As soon as a school begins to implement an early childhood program," says Sava, "they immediately begin to tap the best from the Head Start program." To add injury to injury, Head Start centers are being forced out of the facilities they renovated by schools starting their own preschool programs.

But can they spell "Ypsilanti"?

Children make up the largest group of Americans in poverty, but Head Start reaches only one in five. (In contrast, the Children's Defense Fund estimates that two out of three four-year-olds whose families have annual incomes over $35,000 attend preschool.) Recently, though, Head Start has gotten a boost from the publication of *Changed Lives*, a study done on the Perry Preschool Program in Ypsilanti, Michigan, a particularly high-quality preschool for disadvantaged black children.

Like doctors who argue that providing good prenatal care is cheaper than caring for premature babies, the authors of this 1984 report claimed that in the long run, preschool can save the government a bundle in social costs. Although some of its results were unremarkable, the report did show that a well-funded preschool can have lasting effects: Compared to adults from a similar background, graduates of the Perry Preschool were more likely to have finished high school and gone on to college or vocational training, more likely to be self-supporting, and less likely to have been detained or arrested. Among former preschoolers, the rate of teenage pregnancy was half that of the control group—a potentially far-reaching benefit, since teen pregnancy often traps women in the cycle of poverty. According to a cost-benefit study, each dollar spent on this sophisticated preschool saved six that would have gone for special education, court and prison costs, and social services.

In large part it was Perry Preschool—combined

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with other studies that found Head Start kids less likely to flunk or to wind up in special education classes—that persuaded the Reagan and Bush administrations to get behind the program. Head Start appeals to conservatives because of its emphasis on self-help and family values (and because it's a fairly inexpensive way to look kind and gentle). Bush began his presidency with a plan to add $250 million to Head Start's budget in 1990 in order to serve 95,000 more kids, arguing that "full funding" could be achieved by tacking on more slots and limiting the program to four-year-olds (the Children's Defense Fund wants Head Start to serve three- to five-year-olds). Recently Bush has backed away from his already narrow definition of "full funding" and from discussing future increases. Congress has voted to add just $170 million to Head Start next year, with some of the money going to expand the program and some for higher teacher salaries. Should Gramm Rudman stay in effect, it will knock that number down to an estimated $102 million, which will allow Head Start to serve only 20,000 more kids in 1990. The good news is that Head Start will get *some* more money (it got an increase of just $28 million in 1989) and seems to enjoy both conservative and liberal support as it heads toward reauthorization in 1990.

Head Start needs this boost and more: more slots, higher salaries, and an expansion of its mission to serve not just the poor but also the working poor. In addition to coming up with more money, Congress should create a national volunteer corps of young people committed to working for two or three years in programs like this. Most important, Head Start kids need follow through, something that seems to have gotten lost in the debate. You can do all you want to improve the quality and quantity of Head Start, but without competent and sympathetic teachers in the public schools, the early benefits will quickly fade—which may be why a third of the Perry Preschoolers still wound up as dropouts. We've always known that a stitch in time saves nine. What we're seeing in the battle between Head Start and the school system is that a stitch in time can also unravel. □

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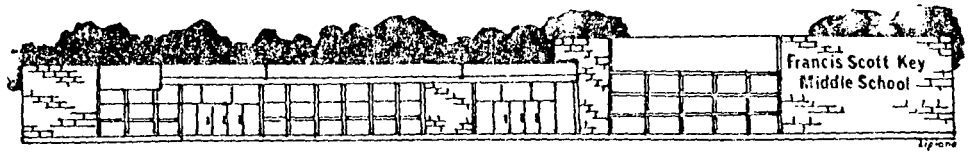

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Lessons from the Poverty Front

OEO didn't solve our urban problems, but it did some things right. Things we should be doing now.

by Nicholas Lemann

Twenty-five years ago this month, in a faraway liberal country, a government agency called the Office of Economic Opportunity (OEO) was established by an act of Congress. It survived under that name for one stormy decade, and a remnant of it limped along under a different name (the Community Services Administration) until the first year of the Reagan Administration. The OEO was created to fight the "War on Poverty" that President Lyndon Johnson declared in his 1964 State of the Union address.

For a small and short-lived government agency, the OEO had a tremendous impact on the collective unconscious of American politics, and to some extent it still does. Most people believe that it failed, in an extremely expensive and destructive way; the War on Poverty is thought to have been a cause of the current disastrous conditions in black ghettos and to have nearly bankrupted the country. The "lesson" of the OEO that seems to prevail at the moment is that poverty programs don't work, can't work, and, if they have any effect at all, it's probably to increase poverty.

Yet there is a relatively tiny minority that remembers the OEO fondly, as a kind of high water mark of noble purpose in domestic government. As you read this, hundreds of teary OEO reunions are going on all over the country. Most of those in attendance believe that the OEO did very little wrong, and that the reason the War on Poverty failed was that it was never really fought, mainly because the escalation in Vietnam came along only a few months later and drained away its resources.

You'd have to go back to the days of the Bank of the United States to find so dense a cloud of mythology surrounding a federal agency. The reason it's so difficult to see the OEO clearly is that it directly touched what are probably the two most sensitive nerve endings in the American mind: race relations and the creed of self-reliance. Though it wasn't intended to be, the OEO became the government's principal point of contact with the black ghettos and the black power movement. And it spent tax money to help the able-bodied (or "undeserving") poor. It is extremely difficult to do these things and survive.

But the OEO could have done a better job—especially a better job of surviving. While Johnson was right to declare War on Poverty in his mind, he was wrong to declare it publicly in his first State of the Union address. The percentage of poor Americans went way down during the sixties, but Johnson had set the rhetorical stakes so high that as long as any visible poverty remained, he would look like a defeated commander.

Once war had been declared, the next mistake was deciding to wage it primarily through quasi-independent local "community action agencies." Many of them did a good job, and hundreds still exist as a force for good in their towns, preparing toddlers for school, teaching adults to read, starting credit unions that make loans to new businesses, and rehabilitating housing. But as an administrative tactic, community action was uninspired, to say the least. The concept was new, vague, and open to wildly different interpretations—there was never a simple answer to the question, "What *is* community action, anyway?" Many of the local community action agencies were brand-new and therefore lacked any institutional memory about how to run something. Because there were so many horror stories, the OEO was extremely

Nicholas Lemann, a contributing editor of The Washington Monthly, *is a national correspondent for* The Atlantic.

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The award for stories published or aired in October will be announced in the January issue. Nominations for stories published or aired in November will close December 15. The winner will be announced in the February issue.

vulnerable to them. When the community action agency in Newark helped stage a play by LeRoi Jones that portrayed Rochester from the Jack Benny Show righteously killing white people, the stock of the entire community action program went down.

Community action was created in a spirit of mistrust of the established political order, especially in the South, and it was designed to distribute its monies outside the usual political channels. This meant, however, that it started life with an extraordinarily powerful set of enemies, including the established federal domestic departments, such as Labor, Agriculture, and Health, Education, and Welfare, and those governors, mayors, and members of Congress who were unable to control the antipoverty funds going into their districts. As a result, the primary political battles over the OEO were about form (who ran the community action agencies) not function (what the community action agencies actually did to fight poverty). Even if there had been no Vietnam, the OEO would have been in political trouble; Johnson himself soon turned against it, feeling (not inaccurately) that it was a nest of admirers of his archenemy, Robert Kennedy.

OEO scoreboard

The War on Poverty also suffered because, about a year into its existence, its intellectual rationale became passé. In 1964, when the war was planned, most liberals (except economists) believed that the crucial task was to break the hold of the "culture of poverty" by offering poor people a lot of special education and training. By 1965, the culture-of-poverty thesis was on its way to becoming anathema to intellectuals because it seemed patronizing and social-workerish. Instead, poverty should be fought either by giving poor people cash or through economic-development and political-empowerment schemes in poor areas. Even the leaders of the poverty program did not spend their main energies selling ideas like Head Start.

In retrospect, it seems obvious that everybody should have been focusing on the question of whether or not the OEO's programs were helping poor people. Everybody wasn't, though, and as a result the successes of this extremely high-profile agency were curiously obscure. There were many things the OEO did that worked. There is a demonstrable difference in early development between poor children in Head Start and poor children not in Head Start. Job-training programs like the Job Corps and the Neighborhood Youth Corps, while expensive, did raise their trainees' subsequent earnings. The impact of VISTA and the Foster Grandparents program

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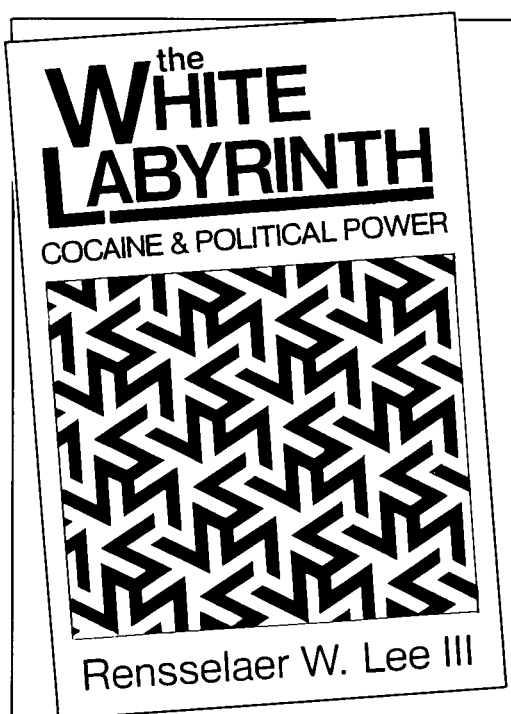
(which was created by the OEO, not Nancy Reagan) is probably impossible to measure, but both helped create some sense of common cause between the poor and the not-poor. By raising the nation's consciousness about social-welfare issues, the OEO helped create a climate that made later antipoverty advances, such as food stamps and Social Security disability payments, possible.

It's important to demythologize the War on Poverty. The OEO, a smallish federal agency, didn't create the underclass. It won't do to cut off the debate about social programs by saying that the OEO's failure proves that no program can work. Actually, we know quite a bit about what the War on Poverty did and didn't do well. Broadly speaking, what poverty programs haven't been able to do well is to turn very poor neighborhoods into stable working-class environments with safe streets, good schools, and plentiful jobs. The main reason for this is the heavy outmigration from very poor neighborhoods. Discussions about helping the underclass today concentrate too much on the idea of community development, and not enough on assisting this natural process of up and out.

Probably the greatest success of the War on Poverty was as a jobs program. The OEO put many thousands of blacks on the road to becoming middle class by putting them on the government payroll. In 1970, during the sunset period of the Great Society, 57 percent of black male college graduates and 72 percent of black female college graduates worked for government. The irony here is that the planners of the War on Poverty explicitly rejected the idea of fighting poverty through a big job-creation program. The second overall success of the OEO was in what might be called acculturation: efforts designed to impart the mores of mainstream American society (good prenatal care, literacy, work skills, and habits) to the poor. Head Start is an example. But this is an uncomfortable truth too, because it bears out the verboten culture-of-poverty thesis.

There are some problems that the War on Poverty and its ripple effects did alleviate, most notably elderly poverty. But the problem of ghetto poverty is even more urgent now than it was then. We need to solve it, and we can solve it. A lack of intellectual honesty about the OEO is one of the main roadblocks. □



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Rensselaer W. Lee III

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When Criminal Rights Go Wrong

Forget liberal. Forget conservative. Think common sense.

by Paul Savoy

It has become one of those commonplaces of bicentennial speeches and Fourth of July orations to cite reports by pollsters that if the Bill of Rights were put to a vote today, a surprisingly large number of citizens would fail to ratify some of our most fundamental freedoms. A 1989 survey conducted by *The National Law Journal* showed that Americans are so fearful about the drug-driven crime epidemic that more than half of those polled who expressed an opinion favored cutting back the constitutional rights of criminal defendants and overruling Supreme Court decisions that limit police conduct in gathering evidence.

When Americans reject the ideals of one of our founding documents, we are urged to believe, as Garry Wills observed on the occasion of the 200th anniversary of the Declaration of Independence, that something has gone wrong with America; that somehow, in failing to subscribe to the Supreme Court's interpretation of certain 18th-century ideals, America "has ceased in part to be itself." What we have failed to consider is the possibility that what may be misguided are the orthodox teachings of the American legal establishment, not the majority opinions of the American people.

Paul Savoy, a former prosecutor and law professor, is working on a book about the Supreme Court.

The approach of the 200th anniversary of the ratification of the Bill of Rights provides a timely opportunity for the legal profession to consider an unsettling idea: There may be considerable validity to the profound, though poorly articulated, intuition of the public at large that the procedural guarantees of the Constitution are not to be used to undermine a defendant's responsibility for his criminal acts. Because readers will be (and should be) extremely skeptical of the claim that much of what law schools have been teaching and courts have been espousing since the advent of the Warren Court era may be fundamentally flawed, a heavy burden rests with those who would challenge the prevailing orthodoxy.

Taking rights too seriously?

Having provided the framework for what was surely the most ambitious and idealistic effort in the history of the Supreme Court to bring the Constitution to bear upon flagrant abuses in the administration of criminal justice, liberals have become willing to accept the assumptions and principles of that 1960s revolution as dogma beyond accountability to serious moral or intellectual inquiry. Deeper and more mature reflection on the history and purpose of the procedural guarantees of the Constitution—including most prominently the Fourth Amendment

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prohibition of unreasonable searches and seizures and the Fifth Amendment privilege against compulsory self-incrimination—will show that these fundamental rights were not intended, and should not be construed, to protect the guilty.

In 1957, Edgar Smith was convicted of murdering a 15-year-old girl and sentenced to die in the electric chair. High school sophomore Vickie Zielinski had disappeared on her way home from visiting a friend, and her battered body was found the next day in a sand pit on the outskirts of the small New Jersey town where she lived. Her skull had been crushed with a 44-pound boulder, leaving a gaping hole in her head and her brains scattered along the bank.

In 1969, the Supreme Court ordered a hearing to determine if incriminating statements Smith made to police had been obtained in violation of his constitutional rights. Although Smith acknowledged that he had not been mistreated by the police officer who conducted the interrogation, and three psychiatrists testified that the statements were "the result of his free will and rational choice," a federal court in New Jersey ruled the statements were inadmissible because they were obtained under "coercive" circumstances: Smith had not been advised of his right to remain silent or his right to counsel, and his interrogation had extended over a period of more than 10 hours. After 14 years on Death Row, Smith, who continued to assert his innocence, was released from prison because, without his statements, there was insufficient evidence to retry him for first-degree murder.

Five years after his release, in 1976, Smith finally did confess to killing Vickie Zielinski—at a trial in San Diego in which he was convicted of kidnapping and attempted murder after abducting another woman and stabbing her with a six-inch butcher knife as she struggled to escape. "Don't ask me why I did it," Smith later wrote from San Quentin Prison regarding the San Diego attack. "Ask those self-righteous public servants why they gave me the opportunity to do it."

No constitutional controversy has generated as much public furor, nor elicited a more unsatisfying response from the legal profession, than the debate over the rights of people accused of crimes. The notion that criminals have constitutional rights may offend the average citizen concerned about the increase in drug-related crime and gang violence, but every law student soon learns that the common sense of the common man is wrong. The basic premise of our constitutional system of criminal justice is that a defense attorney has the duty to raise every available legal defense without regard to the actual guilt or innocence of his client. If cross-examination can be used to discredit a nervous and easily confused witness, use it, even though you know he is telling the truth. If the evidence has been illegally seized, move to suppress it, even though it establishes incontrovertible proof of your client's guilt. If the eyewitness's identification is tainted by an improperly conducted lineup, challenge it, even if the witness has correctly identified your client as her assailant. If the police interrogated your client without advising him of his right to remain silent, move to exclude his confession, without regard to whether it is truthful or whether your client is actually guilty of the kidnapping and murder with which he is charged.

"Don't ask me why I did it," Edgar Smith, a convicted murderer, later wrote from San Quentin Prison. "Ask those self-righteous public servants why they gave me the opportunity to do it."

"Defense counsel has no obligation to ascertain or present the truth," explains Justice Byron White in a classic statement of the criminal lawyer's role. "Our system assigns him a different mission. . . . [and] permits counsel to put the State's case in the worst possible light, regardless of what he thinks or knows to be the truth." If an injustice results, in the sense that a guilty person escapes a punishment he deserves, it results because the Constitution, according to the received view, not only permits it, but requires it. "The constitutional rights of criminal defendants are granted to the innocent and the guilty alike," Justice William Brennan reminds us in a recent affirmation of this fundamental principle of constitutional jurisprudence. Beginning in the early sixties, the constitutional rights of criminal defendants came to be defended in such eloquent and eminently reasonable terms that no one with a modicum of civic virtue could disagree. That all people, without regard to guilt or innocence, are entitled to claim the procedural decencies of the Constitution in resisting the power of government to invade their freedom and privacy—who would dispute such a ringing affirmation of human dignity and the rule of law? Few statements about the Bill of Rights seem so obvious from the

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text or sound so seductive. And yet few are so deeply and grievously flawed.

In the 1980s, the perception that there is something radically wrong with the prevailing liberal view of the rights of people accused of crimes became widespread. Outrage about the extent to which victims are sacrificed to the rights of criminals is evident in the wave of films in the last several years that depart from the Perry Mason school of criminal law, in which all clients are innocent. The outrage is there in *The Jagged Edge*, the story of a defense lawyer portrayed by Glenn Close, who skillfully wins an acquittal for her client in a murder trial, only to discover that she is about to become his next victim. It is there in *Star Chamber*, in which a group of trial judges, fed up with having to dismiss cases against guilty defendants on technicalities, deputize themselves to try the culprits *in absentia* and order their execution by hired hit men. And in *True Believer*, James Woods portrays San Francisco attorney Tony Serra, a sixties defender of political activists turned eighties drug lawyer, who is berated by a disenchanted young associate for "using exalted principles to get off scumbags," until he gets a chance to redeem himself by defending an innocent man.

A long line of distinguished authorities confirm the conclusion that in common law, an arrest violated no right of the accused if he was actually guilty.

By the end of the 1988 presidential campaign, drugs and violent crime had vaulted to the top of the American political agenda. The defeat of Michael Dukakis became the most visible symbol of the deep fissures and contradictions in "liberal" that have made it synonymous with "soft-on-crime."

There is considerable irony in the extent to which liberalism has taken the heat for coddling criminals. Despite its rhetoric of liberty and human dignity, the due process school of criminal procedure is not a legitimate child of classical liberal thought. John Stuart Mill, the founding father of liberal legal theory, actually denounced as "sophistry" and as "palpably untenable and absurd" those arguments invoked by barristers in early 19th-century England to rationalize the use of procedural rules to defeat the prosecution of clients they knew were guilty of the crimes with which they were charged. "The benefit which would arise from the abolition of the exclusionary rule," Mill wrote in a postscript to Jeremy Bentham's classic treatise on the law of evidence, "would consist rather in the higher tone of morality that would be introduced into the profession itself." The exclusionary rule to which Mill was referring was the attorney-client privilege, which, in the context of criminal defense practice, "gives an express license to that willful concealment of the criminal's guilt, which would have constituted any person [besides the criminal's lawyer] an accessory to the crime." With Bentham, Mill called for a reform of legal ethics:

"We should not then hear an advocate boasting of the artifices by which he had [manipulated]. . . a deluded jury into a verdict in direct opposition to the strongest evidence; or of the effrontery with which he had, by repeated insults, thrown the faculties of a bona fide witness into a state of confusion, which had caused him to be taken for a perjurer, and as such, disbelieved. Nor would an Old Bailey counsel any longer plume himself upon the number of pickpockets whom, in the course of a long career, he had succeeded in rescuing from the arms of the law. The professional lawyer would be a minister of justice, not an abettor of crime; a guardian of truth, not a suborner of mendacity."

The so-called "liberal" model of criminal procedure that prevails in the United States today is actually an odd coupling of free-market theory with a particularly interventionist form of governmental regulation—not regulation of the private sector, but regulation of government by government: regulation of the police by the courts. It is governmental regulation in the name of individualism, not the traditional individualism of Jefferson or John Stuart Mill, but the free-enterprise individualism of modern libertarianism decked out in the pious rhetoric of the founding fathers.

Staples of injustice

In the early morning hours of May 5, 1979, the badly burned body of Sandra Boulware was discovered in a vacant lot in the Roxbury section of Boston. An autopsy revealed that she had died of multiple compound skull fractures caused by repeated blows to the head. After an investigation, police linked the homicide to one of the victim's boyfriends, Osborne Sheppard, and obtained a warrant authorizing a search of Sheppard's house. Police officers found several pieces of incriminating evidence there,

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including a pair of bloodstained boots, a hairpiece belonging to the murdered woman, and strands of wire similar to wire fragments found on the victim's body.

Sheppard was found guilty of first-degree murder after a trial in which these items were received in evidence. Two years later, the Massachusetts Supreme Judicial Court overturned the conviction on the ground that the evidence had been illegally seized. Because Detective Peter O'Malley had applied for a search warrant on a Sunday, the local courthouse was closed, and he could not find an application form for the warrant. O'Malley finally obtained a warrant form designed for narcotics cases, but he failed to delete the reference to "controlled substances" in the part describing the evidence to be seized. O'Malley had included a detailed description of the evidence in an affidavit that accompanied the warrant application, and the warrant would have been valid if the judge had written "see attached affidavit" on the form and stapled the affidavit to the warrant. But the judge issued the warrant without making the necessary changes. The mistake proved fatal, insofar as the Fourth Amendment requires that a warrant "particularly describe" the evidence to be seized. Because of a failure to staple two pieces of paper together, the state's highest court reversed Sheppard's murder conviction.

In 1984, the U.S. Supreme Court agreed to hear the case. By then, the Burger Court had already begun whittling away at the 1961 Warren Court decision in *Mapp v. Ohio*, which established the principle that evidence seized in violation of the Fourth Amendment is inadmissible in state as well as federal prosecutions. In an opinion written by Justice White and joined by five other members of the Court, Sheppard's conviction was reinstated and the exclusionary rule was modified to incorporate a "good faith" exception. This exception permits illegally seized evidence to be used against a defendant if the police officer who conducted the search reasonably believed that it was authorized by a valid warrant. Affirming earlier indications of the Burger court that the exclusionary rule is not to be regarded as a "personal constitutional right of the person aggrieved," the conservative majority in *Sheppard* concluded that illegally seized evidence should not be excluded when the benefits of the rule in deterring police misconduct are outweighed by its costs in freeing guilty defendants.

Civil libertarians denounced the Court's decision as tantamount to repealing the Fourth Amendment. Liberal defenders of the exclusionary rule, including

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ARE WE ENTERING THE GREENHOUSE CENTURY?

Stephen H. Schneider

GLOBAL WARMING

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Justices William Brennan and Thurgood Marshall, who both dissented from the Court's ruling in the Sheppard case, maintained that the exclusionary rule is not a discretionary remedy that the Court is free to balance against the costs of letting guilty defendants off, but rather, "a direct constitutional command." In a widely quoted speech delivered the following year, Justice Brennan, one of the two remaining members of the Warren Court majority, lamented the Court's failure in the post-Warren years to fulfill its historic mission "as a protector of the individual's constitutional rights."

The debate between liberals and conservatives over the good-faith exception to the exclusionary rule has manifested itself in the form of a question that captures the constitutional crisis in a more compelling way than might at first appear—as a kind of Zen koan for our times: *Does a police officer's reasonable belief in the reasonableness of an unreasonable search make the search reasonable?* The cabalistic nature of such constitutional conundrums is not so much a function of some profound legal mystery as it is a symptom of the breakdown of the ruling doctrines that have shaped the Court's thinking about them. Behind the smoke and mirrors of the constitutional arguments is one simple and fundamental disagreement between liberals and conservatives that everyone could understand if candid explanations were not ruled out by the legal profession's allegiance to the cult of complexity: Liberals believe that everyone is entitled to claim the protection of the Fourth Amendment, without regard to their guilt or innocence; conservatives, while they pay lip service to this constitutional canon, do not actually believe it—and with good reason. That a person driving a car with a corpse in the trunk and a five-year-old kidnap victim on the floor has some legitimate expectation of privacy is about as ludicrous a proposition as one could imagine. But back on the record, Everyman's car is his castle.

More than 30 years ago, before *Mapp* was decided and the ideological silos had hardened, Edward Barrett, former dean and professor emeritus of the University of California at Davis, posed the commonsense question in an article in the *California Law Review*: "If one were to look only to the rights of the defendants, why would it not be reasonable to take the position that by engaging in [criminal activity] within their houses, they have waived their constitutional right to privacy and could in no event complain of the police entries?" A closer reading of certain celebrated 18th-century cases, frequently cited by liberal jurists and commentators as "landmarks of English liberty," supports Professor Barrett's suggestion that criminals should not have any right to use their privacy to conceal criminal activity. It appears that the original purpose of the Fourth Amendment was not to create a personal sanctuary where even the criminal might claim a legitimate expectation of privacy, as modern authorities assert, but rather to protect law-abiding citizens from invasions of privacy by overzealous law enforcement officers.

Common law, common sense

In 1763, the Chief Justice of the English Court of Common Pleas, later elevated to the peerage as Lord Camden, authored an opinion which would immortalize him, in the words of Samuel Johnson, as the "zealous supporter of English liberty by law." John Wilkes, a member of Parliament, and 49 other individuals had been arrested the preceding year and charged with seditious libel in connection with their publication of one of a series of political pamphlets that contained an unusually bitter attack both on Charles II and on the use of general warrants to search for evidence of violations of an unpopular tax on cider. A general warrant was issued by the secretary of state, pursuant to which Wilkes' house was ransacked and all his private papers seized. Wilkes brought a civil suit against the governmental official responsible for the execution of the warrant and won a judgment of 1,000 pounds.

Although Lord Camden roundly condemned the use of general warrants as "totally subversive of the liberty of the subject," a careful reading of his opinion makes it clear that the guilt or innocence of the householder was far more relevant to the validity of the search than the standard liberal accounts suggest. The chief justice declared that although the warrant was unsupported by probable cause, "If upon the whole, they [the jury] should esteem Mr. Wilkes to be the author and publisher [of the pamphlet], the justification [for the search] would be fully proved."

A long line of distinguished authorities, from Sir Matthew Hale's classic 18th-century work on the English common law of liberty to the American Law Institute's modern *Restatement of Torts*, confirm the conclusion that under common law, an arrest, even though made without a warrant or probable cause, violated no right of the accused *if he was actually guilty of the crime for which he was arrested.* It was the common sense of the common law that the criminal had no standing to complain of being caught.

This is not to say that in acting without probable cause or in failing to obtain a valid warrant, the police have not violated the Fourth Amendment, but only that in so acting, *they have violated no personal right of a felon.* On this revisionist view of the Fourth Amendment, the function of the exclusionary rule,

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when invoked by a factually guilty defendant to object to illegally seized evidence, is not to vindicate any personal right of the accused but actually enables him as a representative of the public interest to enlist the judiciary in protecting the collective security of the rest of us. The defendant, in effect, is "asserting that he must be recognized as a private attorney general, protecting the Fourth Amendment rights of the public at large," explains Columbia University Professor of Constitutional Law Henry Monaghan.

The right to remain silent reflects our unwillingness as a society to permit an innocent person to become the instrument of his own conviction.

The public debate over the exclusionary rule has proceeded as if the issue were "the rights of the suspect" versus "the rights of society." Formulating the problem in such terms misapprehends the true nature of the rights asserted by the criminal defendant. When a defense attorney moves to suppress the 400 pounds of cocaine with which his client was caught red-handed, what is actually being defended is not a personal right of the defendant, but the right of drug traffickers to defend the rights of the rest of us without our consent—a prerogative that leading constitutional scholars are beginning to recognize has no basis in the Bill of Rights.

The Court has no power per se to reverse a conviction because the police have violated the Constitution. The rights guaranteed by the Constitution normally may be enforced only by someone whose own personal protection was infringed by the violation. In the rare instance when individuals are permitted to assert the rights of third parties or of the public at large, the Court has held that some relationship must exist that makes the individual asserting the right an adequate representative of the members of the public in whose behalf the right is claimed.

We have done something strange and almost incomprehensible in our constitutional system of criminal justice. On the one hand, the justices have closed the federal courthouse door to law-abiding citizens seeking to protect their own rights with public interest lawsuits and have refused to issue injunctions against police misconduct even when individuals have been seriously injured as a result of those abuses. (In a lawsuit challenging the use of choke-holds by the Los Angeles Police Department, the plaintiff, who had been strangled into unconsciousness by a police officer during the course of a stop for a traffic infraction, was denied injunctive relief against the use of the holds, even though by the time the Court heard the case in 1983, 16 deaths had occurred as a result of the departmental practice.) On the other hand, the Supreme Court has deputized criminals to protect the constitutional rights of law-abiding citizens. The factually guilty defendant, however, insofar as he seeks to enforce the public interest by obtaining exemption from punishment, is a most improbable and inadequate representative of the public interest.

The real objection to using illegally seized evidence against a factually guilty defendant is not that such use is contrary to the Constitution, but that a court is normally unable to determine whether a defendant is guilty of using his privacy for criminal purposes without considering the very evidence that has been unlawfully seized. The Supreme Court has declared that "an arrest is not justified by what the subsequent search discloses." Perhaps it is time for the Court to reconsider this doctrine and permit the fruits of the search to be used, not to justify the search, but to determine whether the defendant was using his privacy for criminal purposes, thereby reserving the exclusionary rule for people who maintain a legitimate expectation of privacy.

A dubious privilege

After being arrested at his home in Phoenix, Arizona, Ernesto Miranda was picked out of a lineup by an 18-year-old victim as the man who had kidnapped and brutally raped her. Two officers then took Miranda into a separate room to question him. At first he denied his guilt, but after two hours of interrogation, he gave a detailed oral confession and then wrote out and signed a brief statement in which he admitted and described the crime. Although unmarked by any of the traditional indicia of coercion, Miranda's oral and written confessions were held inadmissible because the police had failed to advise him of his right to remain silent and his right to a lawyer. As Justice John Harlan suggested, in dissenting with three other members of the Warren Court from the majority's ruling almost 25 years ago in *Miranda v. Arizona* "one is entitled to feel astonished" that the Constitution can be read to create such a dubious privilege: *a right of criminals to conceal their crimes.*

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MY FELLOW ARMENIANS...

Judith Martin's account in *The Washington Post* of the welcoming ceremony for Spanish King Juan Carlos at the White House: "President Ford emphasized the historical contributions of Spain to the United States, correcting himself quickly when he referred to the country as 'Stain' and when he slipped and said that America had been discovered in 1942."

—July/August 1976

This ad appeared in the August 27, 1981 *San Diego Union:*

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WHO SAYS BANKS ARE UNFEELING?

Credit and Financial Management magazine looks forward to automated electronic banking: "It won't be long before customers should be able to complete most of their banking transactions without any personal contact. This will enable banks to offer more personalized services."

—March 1977

JINGLE BELLS, JINGLE BELLS/JINGLE ALL THE WAY/OH WHAT FUN TO PACK A ROD/SO GO AHEAD AND MAKE MY DAY

To wish people well over the holidays, John M. Snyder, chief lobbyist for the Citizens' Committee for the Right to Keep and Bear Arms, sent out Christmas cards with a picture of a beaming Bernhard Goetz sitting astride Santa's knee and receiving a "full pardon" for Christmas, with the Manhattan District Attorney Robert Morgenthau downcast, sulking alongside.

—February 1987

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TIDBITS & OUTRAGES

A COLLECTION OF THE BEST TIDBITS AND OUTRAGES OVER THE PAST YEARS. . .

THE RULING CAME AFTER THE STATE BAR ASSOCIATION MEETING IN GSTAAD

The New Mexico Supreme Court suspended a program that would have required the state's lawyers to take 15 hours of legal and ethics seminars, citing the "administrative headaches" involved.

—April 1989

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FORTUNATELY, SHE ALSO BELONGS TO THE BAR IN NEW MEXICO

In South Carolina, an attorney was suspended from practice for one year after she admitted stealing the proceeds from her daughter's Girl Scout cookie sale.

—April 1989

DON'T STEER UNTIL YOU CAN SEE THE WHITES OF THEIR EYES

A U.S. nuclear-powered submarine, designed primarily to locate and, in the event of a war, destroy enemy submarines, suffered $2.7 million in damages last fall when it "struck a submerged object." The Navy recently identified the object as a Soviet submarine.

—April 1987

YOU WOULDN'T LIKE TO PADDLE EITHER IF YOU DIDN'T HAVE BOTH OARS IN THE WATER

James Watt, secretary of the interior, recently expounded on his love of nature during a speech before the Conference of National Park Concessioners. Describing a rafting trip through the Grand Canyon, Watt said, "I went down the Colorado River in September. . . . The first day was spectacular. . . the second day started to get a little tedious, but the third day I wanted bigger motors to move that raft out. There is no way you could get me on an oar-powered raft on that river, I'll guarantee you that. On the fourth day we were praying for helicopters." Watt explained, "I don't like to paddle and I don't like to walk."

—July/August 1981

IF THERE'S ONE THING WE WON'T TOLERATE IN THIS DEPARTMENT, JONES, IT'S A SHOW-OFF

The Arlington, Texas police department smissed a police officer who killed three ple in seven months, after notches were found carved on his pistol.

—May 1989

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To be sure, the law has long regarded torture and other blatant forms of coercion as unlawful means of obtaining a confession, for the reasons that a coerced confession is likely to be untrustworthy and that the use of physical brutality offends civilized standards of fair play and decency. But when a confession is indisputably true, and the police have not used the blackjack or the third-degree, the reason for the privilege is more difficult to fathom. This is not to dispute the wisdom of the Court's decision in *Miranda* requiring that, before questioning, people in police custody be advised of their rights under the Fifth and Sixth Amendments. A decision about whether to invoke a constitutional right should be the product of an informed and independent choice, and advising a person that he has such a right contributes to his freedom to choose.

The more obvious question, but one that is rarely asked about *Miranda*, is why a criminal suspect should have a right to remain silent in the first place. Even as conservative a critic of *Miranda* as former Attorney General Edwin Meese conceded that "if a person doesn't want to answer, that's [his] right." However, as Judge Henry Friendly once observed, "no parent would teach such a doctrine to his children." The guilty, according to the moral standards that prevail outside the courtroom, should own up to their guilt, while the innocent, one would think, have nothing to fear by telling the truth.

Carvin' Miranda

Describing the complex of values embodied in the Fifth Amendment privilege against compulsory self-incrimination, Chief Justice Warren, in his opinion for the Court in *Miranda*, explained that the privilege has come to be recognized in part as an individual's "right to a private enclave where he may lead a private life." Elsewhere, the Court has said of the privilege that it is "intended to shield the guilty and imprudent as well as the innocent."

Despite the Court's confident pronouncements, however, the conclusion that a person who has committed a rape or any other crime has a privacy interest in not answering a police officer's questions is supported neither by the historical record nor by evolving standards of fair play and decency. The story of the historic struggle for the privilege as a protest in behalf of the guilty and the innocent alike against the abuses of inquisitorial methods of interrogation is largely a fairy tale.

The privilege traces its roots in Anglo-American history to early 17th-century England, when the infamous Star Chamber and the ecclesiastical courts prosecuted various religious and political offenses by requiring Puritan dissenters to take an oath and answer questions regarding deviations from the established faith. The resistance of dissident preachers and pamphleteers to these proceedings took the form of the defense that "no man is bound to accuse himself," and received its most articulate exposition from the Levellers, whose ideas furnished the intellectual bulwark of the Puritan Revolution. This much about the history of the Fifth Amendment is generally known and agreed upon by constitutional scholars and jurists.

What is not generally known is that the Levellers articulated the privilege not as a right of the guilty and the innocent alike, but as a protection for those who sincerely believed they were innocent—either in the sense that they had not committed the acts with which they were charged, or more commonly, that they had a conscientious belief that the crimes of which they were accused were beyond the power of government to punish (heresy, seditious libel, and treason were the usual offenses). According to John Lilburne, the most prominent and prolific of the Leveller leaders, the right to remain silent was a right "that no man be questioned, or molested, or put to answer for anything, *but wherein he materially violates the person, goods, or good name of another*." [Emphasis added.]

The opposition in England to compulsory self-incrimination, although related to resistance to torture and other physically abusive forms of interrogation, went far beyond those concerns. The privilege proceeded primarily from the objection to the moral compulsion associated with the oath and the dilemma it created for *people of conscience* either to lie under oath or to tell the truth and thereby risk conviction for offenses they believed the state was without power to punish. A petition circulated in 1648 by the Levellers contained what was perhaps the first formal declaration of the privilege in language clarifying its relation to the oath and leaving no doubt that its roots were planted in the soil of conscience: "That all Statutes for all kinds of Oaths, whether in Corporations, Cities, or other, which ensnare conscientious people. . .be forthwith repealed and nulled, *and that nothing be imposed upon the consciences of any to compel them to sin against their own consciences*." [Emphasis added.]

The privilege against self-incrimination was thus originally conceived as an essentially spiritual principle that permitted a person who had a conscientious belief in his innocence to assert what was tantamount to a right of passive resistance against an unjust law or a false accusation. The modern use of the privilege that best exemplifies its original purpose was the exercise of the Fifth Amendment during the McCarthy

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era. Given the Cold War climate of the fifties, a Supreme Court that could not quite bring itself to declare that active membership in the Communist Party was protected by the First Amendment could nevertheless find in the procedural guarantee of the Fifth Amendment a politically safe way of permitting people of conscience to resist legislative inquisitions into left-wing departures from the established democratic faith.

Even when freedom of conscience is not at stake, the privilege operates to protect the innocent. Contrary to popular belief, an innocent person may have a great deal to lose by telling the truth. For example, an innocent person, by admitting certain elements missing from the prosecution's case, such as his presence at the scene of the crime, or that he owned the murder weapon, or even that it was he who fatally stabbed the victim (though in self-defense), has a legitimate concern that by telling the truth he may contribute to his being convicted of a crime he did not in fact commit or for which he had sufficient justification. The right to remain silent thus reflects our unwillingness as a society to permit an *innocent* person to become the instrument of his own conviction.

Given the purpose of the privilege to protect the innocent and those who hold a conscientious belief in their innocence, a revised set of *Miranda* warnings that would be more consistent with the history of the privilege, as well as contemporary standards of fairness and justice, should include, in addition to the existing admonitions regarding the right to consult with an attorney, the following: 1) If you believe you are innocent, you are not required to make a statement, or to answer any questions; 2) If you are guilty, you have a legal duty to answer questions and to state truthfully the circumstances concerning your commission of the offense with which you are charged.

The implications of this revisionist interpretation of the Fifth Amendment may have applications beyond the administration of *Miranda* warnings. Two years before *Miranda* was decided, in *Murphy vs. Waterfront Commission*, the Supreme Court made it clear that "by requiring the government in its contest with the individual to shoulder the entire load," the privilege against self-incrimination provides the constitutional core of the presumption of innocence. Rethinking the Fifth Amendment may thus ultimately require rethinking the presumption of innocence as well as Justice White's classic statement of the criminal lawyer's role—"to put the State's case in the worst possible light, regardless of what he thinks or knows to be the truth." In a subsequent article, I will explore this most troubling and difficult aspect of the defense of criminal cases. □

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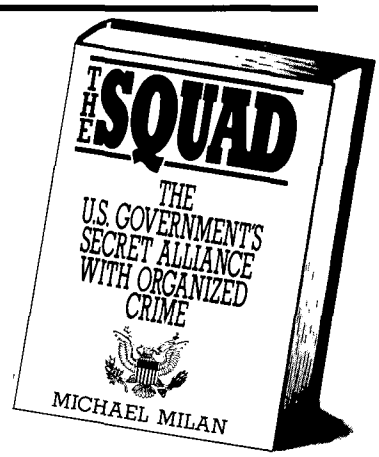

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Class Warriors

Duty, honor, country. And coffins and grad school.

by James Fallows

People will read this book* for different reasons: soldiers for its military atmosphere, Vietnam veterans for its evocation of the war, perhaps even today's college-age readers for an idea of what America looked and felt like before they were born. It should have a special meaning for journalists. In the years since Atkinson's subjects, the cadets in the West Point class of 1966, graduated from the academy, the journalistic environment in America has changed almost as much as the military system. Atkinson's book is a reminder of one old verity that is often left out of the theorizing about the modern duties of the press. It shows that there can be tremendous power in simply telling a story—establishing characters, making the readers care about them, showing what happens next.

The writers who pioneered the standards and styles for today's nonfiction—David Halberstam, Tom Wolfe, Robert Caro, Gay Talese—have varying approaches and ambitions, but all of them understand that the first step in putting their message across is to get the reader interested in the story. Atkinson's approach is different from any of theirs, and in a way more modest. He concentrates on the story itself—"saga" is probably a better word, considering the scope of this book—without the underlying political argument that connects the anecdotes in *The Best and the Brightest* or *The Reckoning*. But Atkinson is a truly gifted storyteller, and the material he turns up is so rich that it suggests a number of messages on its own.

* *The Long Gray Line*. Rick Atkinson. *Houghton Mifflin, $24.95.*

James Fallows, a contributing editor of The Washington Monthly, *is the Washington editor of* The Atlantic.

It's hard to illustrate the narrative power of the book through brief quotations, since its emotional impact is cumulative. As in a good novel, the characters grow more and more interesting as we watch them succeed, fail, mature, and die. In a splenetic, contrarian review for *The New York Times Book Review*, a former Vietnam correspondent named Tom Buckley alleged that this was a shapeless, boring heap of anecdotage. I'd be amazed if more than one reader in a thousand agrees. Three pages into the book, Atkinson gives a sample of his skill in setting scenes. His cadets have come back to West Point in 1986 for their 20th reunion. Nearly all of them have left the Army; 30 of their classmates (of the 579 who graduated) have died in Vietnam. They have gathered at the academy gravesite, and then mustered for the traditional procession of graduates across the parade field known as the Plain:

"As the Hellcats' drum and bugle corps played 'When Johnny Comes Marching Home' at a somber tempo, the graduates glided four abreast onto the sun-washed Plain. Led by a member of '22, the long gray line stretched for two hundred yards from oldest to youngest—'39, '56, '61, '66, '71, '76, '81. As they neared the waiting corps of cadets, the grads grew miraculously younger. Silver heads darkened, ebbing hairlines filled in, paunches flattened, stoops straightened, crow's feet pulled taut.

"Ten thousand spectators cheered."

Later, Atkinson shows us one of the characters leaning on a chain-link fence at an air base in California, shortly before departing for Vietnam:

"Less than fifty yards away, baggage handlers loaded a stack of shiny aluminum crates onto the nearest C-141. Jack could see hundreds of the boxes;

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one by one they glided up a black conveyer belt to disappear into the belly of the plane. Ammunition? he wondered. No, that didn't make any sense; they wouldn't ship ammo in aluminum containers. Perhaps they were missile boxes, Sparrows or Shrikes for the Phantoms at Ton Son Nhut. If so, they weren't very heavy; the baggage handlers hoisted the crates onto the belts with ease.

"Suddenly it struck him: coffins. Empty coffins. No-frills, government-issue, aluminum creels for the dead, bound for another load of mothers' sons in the mortuary at Bien Hoa."

Atkinson was lucky, if that term can be applied to what is obviously the result of many years of hard work, in choosing the group he portrays. The cadets in his class, who were juniors in high school when John Kennedy took office, entered the academy during a burst of nationalistic idealism. Douglas MacArthur had given his famous "Duty, Honor, Country" speech at West Point just before their arrival. Americans were not yet dying in Vietnam. The mood still had not completely turned by the time they graduated in 1966. But four years later, when most members of the class had finished their minimum service requirement, a full third of them resigned their commissions. (In the 1950s, about a tenth of each class resigned after four years.) By 1975, when Americans left Vietnam, only a handful of the cadets were still in the service, and the class had lost as high a proportion of its members in combat as the graduates of the late 1930s had in World War II.

Atkinson might have built an even starker historical drama if he had focused on the class not of 1966 but of 1968, which entered the academy while idealism was still high and came out into complete chaos. But it's easy to understand why Atkinson wanted to stay with this set of characters. Two members of the class of 1966 played major roles in the struggle over the Vietnam Veterans memorial in Washington: one helped organize the effort to build it, the other led the "black gash of shame" camp. After graduation, a number of Atkinson's cadets received Ranger training from Charles Beckwith, who in 1980 organized the doomed rescue mission to Iran. One member of the class survived combat in Vietnam, only to die 10 years after graduation in the horrific "poplar tree" episode in Korea. (When American and South Korean soldiers started pruning a tree that was obscuring their view across the De-militarized Zone, North Korean soldiers suddenly appeared and hacked the two Americans to death with axes.) Other characters in the book figured in the West Point cheating scandals, the investigation of the My Lai massacre, even the recent Wedtech racketeering case.

Few novelists or screenwriters writing about war can resist the temptation to foreshadow. As soon as you hear some poor soldier saying how eager he is to see Mom back in Kansas or how great it will be to leave the war zone, you know he's about to get it. Atkinson resists the temptation. His ability to avoid a sense of foreboding is quite an achievement in itself, since he has seen some of the characters age into their forties and knows others—the ones who died in their twenties—only through their friends' accounts. His even-handedness makes the deaths much more shocking when they occur—as they must have been for classmates and families. You really can't predict which of the young wives are about to be turned into widows and which of the high-spirited young men are about to be mowed down. I can't think of another book that gives a clearer emotional sense of what Vietnam cost.

More to the Point

The toll seems especially heavy because of the nature of two of the deaths. Less than a year after graduation, a lieutenant who had been chairman of the West Point Glee Club was leading a patrol through the Mekong Delta. He got stuck in the mud and asked another soldier to pull on the stock of his M-16 to haul him out. The other soldier accidentally grabbed the trigger and shot him to death. He was only the second member of the class of 1966 to die. A few months later, the cadet whom Atkinson describes as the most colorful and fun-loving in the class was trapped with his platoon in a doomed position on the notorious Hill 875. He managed to survive, until U.S. Air Force planes streaked overhead and dropped napalm on him. "Vietnam produced three kinds of casualties," Atkinson says, "the dead, the wounded, and the wounded who, by all medical odds, should have been dead." The most wrenching case in the book is that of a handsome young man who fell into the third category. His wife, when she first encounters him in the hospital, has no idea that the blind, seared, hairless creature beneath a blanket, "hardly more than a pile of bones," is the man she married. Their courage afterwards makes them the book's real heroes.

In a very few cases, the stories Atkinson recounts are suspiciously neat and perfect. This problem is almost inevitable, considering that there are literally thousands of anecdotes in the book, and that three of the book's main figures are (1) a man who received serious head injuries in a car crash, suffering permanent memory loss, (2) another man who, according to Atkinson, tends to see life's events in dramatically highlighted tones of good and evil, and (3) the uproarious character who died on Hill 875, who was the

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subject of legends while a cadet and who didn't survive to be interviewed about what really happened. One episode in particular, part of a series of "they spat on my uniform when I came home" cases, is almost certainly not true:

In the early 1970s, a number of class members who had left the Army early entered law school. Inevitably, they ran into antiwar arguments and moralizing from other students. At the University of Michigan, a woman named Claudia, married to a member of West Point '66, "was having lunch with a friend who said, 'I think anybody who went to Vietnam was stupid.' Here we go again, Claudia thought. 'My husband's class had one of the highest death rates in Vietnam of any of the classes from West Point,' she offered. The other woman then cited a study which reported that among the 1,200 students in the Harvard class of 1968, only two dozen went to Vietnam and none were killed.

"'Well,' Claudia agreed, 'the war has caused terrible divisions, I guess.'

"The other woman smirked, 'Yeah, it tells you who's smarter.'"

This is a potent, bitter scene, but I bet it did not happen this way. To the best of my knowledge, the only such "survey" of Harvard students in Vietnam is one I conducted informally by going through alumni directories. The figures actually concerned the class of 1970, not 1968—and, much more important, the first published mention of them was in these pages late in 1975, several years after the showdown at Michigan is supposed to have taken place.

This is just one long-shot incident I happen to know about first hand. In general it is remarkable how much material Atkinson has amassed and presented—and how clear-eyed he seems about his characters. He has worked with these people for years. He must love and care about them, but he doesn't seem to have idealized any of them, which makes them all the more convincing and important to us. Unlike Halberstam or Caro, Atkinson organizes his stories toward an emotional purpose—this is how

The Worst City Government

In the District, crises are treated like winter colds: Wait 'em out, they usually go away. There's no better example of that remedy than the city's treatment of its ambulance service, which in 1987 made national news for getting lost en route to dying patients, for "rescuing" the wrong people, and for instructing a man who dialed 911 as his mother was dying to "Hey, hey, grow up."

How to save this essential service used by 150,000 residents a year? In 1987, members of Mayor Marion Barry's ambulance advisory committee came up with the obvious answer: Shut the damn thing down. But the mayor himself had a better idea. For $52,000 he hired a prominent public relations firm to educate the public on when to dial 911. A year later, with the rescue squads as accident-prone as ever, the city council ordered major organizational surgery, and control of the ambulance bureau was shifted from the fire chief to the city administrator. And at the end of 1988, Barry proclaimed the crisis over: D.C. now had a "great ambulance service"—hovering on the verge of greater. But an internal report leaked to *The Washington Post* this past summer suggests the mayor's emergency procedures were about as curative as a nose job.

Citing lousy training, weak supervision, an obsolete communication system, "sixties-era policies and practices," and a basic "lack of urgency" on the front lines, the draft report calculates that the average ambulance response time in the District remains among the slowest in the nation—with the tardiest responses being to calls from Washington's poorest neighborhoods. Six months after the report was leaked, Barry's men are still mulling its contents.

Meanwhile, the District's bad reputation hurts efforts to hire ambulance paramedics. For years the city has relied overwhelmingly (and anachronistically) on less-skilled emergency medical technicians. But a year and a half ago, city officials promised 100 new paramedics to bring the city's service up to speed. Since that announcement, fewer than two dozen hires have hit the streets. That gives the District a grand total of 44 paramedics answering those 150,000 yearly calls. Baltimore, with fewer calls, retains three times that number.

And who are these precious paramedics? The District isn't fussy. Three years ago, a task force complained that a background clearance and drug screening were the only tests certified paramedics needed to pass to get hired. Today, the paramedic who slaps a defibrilator on your chest undergoes the same strenuous screening. "You pee in a cup," summarizes one new hire, "and then they call up your neighbors."

—*Katherine Boo*

The *Monthly* depends on its readers to keep track of the breakdown of big city government. Please send your nominations to:

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my characters lived—rather than around an obvious intellectual theme. But his stories raise two important questions.

One concerns the connection between the American military and the public it is supposed to defend. Atkinson is, of course, concentrating on a special part of the military: its professional leadership class, which has not usually been as representative of the public as the enlisted ranks and ROTC-type junior officers were between World War II and Vietnam. During World War II, the infusion of new blood throughout the officer corps was a crucial source of connectedness between the public and the military, and indeed, created pressure to correct lapses and screwups the military careerists might have tried to conceal. But in peacetime, the career officer corps has never been a real cross-section of America. Even most of the cadets Atkinson describes, who chose the military at a time when "West Point Story" and "Men of Annapolis" were popular mainstream TV series, fall into three familiar categories: sons of military officers, small-town athletes, and southerners.

But the most crucial difference between the years before Vietnam and the years after, based on Atkinson's evidence, is not that the professional officer corps was more representative then, but that it was more respected. When the Army-Air Force football game was held in Chicago in 1962, thousands of young women applied for the honor of accompanying cadets to a dance—and the main complaint was that the date-selection committee was biased in favor of college girls. Through many details Atkinson reveals his cadets' assumption that even if their career took them away from the American mainstream, it would earn them America's respect, as a career in the Foreign Service or the ministry would in those days.

Readers of this magazine are familiar with the idea that America's enlisted ranks and junior officers should be drawn from all levels of American society, to give the middle and upper classes a personal stake in how well the military is run and where it is used. Ideally we should have the same goal for the officer corps. Ninety-five per cent of those who come in through ROTC, for instance, will stay in the military for the minimum term only. But among the remaining five per cent, there will be a few who never planned for a military career but, once inside, discover they like it. Leavening the military with their presence is one of the reasons to preserve or expand ROTC. (Another reason, as the sociologist Charles Moskos has frequently emphasized, is that ROTC establishes the link between performing public service and receiving benefits from the public. Moskos advocates a much broader policy of offering scholarships to students who will spend several years in the military, with the police, on nursing-home staffs, or in some other form of public service.) The career military should also open up more "lateral entry" channels, as the foreign service has begun to do, to make room for people who may have spent their twenties or thirties in business, academics, or some other career but then want to switch to the military. The rapid absorption of such people during World War II showed that both the military and the society benefited from the cross-fertilization. But short of this ideal of representation, Atkinson's stories show the importance of making the professional officer corps worthy of respect again.

War by the numbers

Atkinson's other question probes *why* the professional military lost America's respect. There is no doubt, after reading the book, that the military was one of the big victims of the Vietnam war. No other group of classmates in the country can have suffered as high a casualty rate, physical and spiritual, as the West Pointers did. But Atkinson also shows (rather than says) that the roots of many of the military's failures reached deep into the West Point tradition. Almost everything that proved to be wrong with the military's ethics in Vietnam had some connection with the values instilled at West Point. The obsession with numerical ratings and class standing is almost impossible for outsiders to believe. (Even years after graduation, members of the class were seated at football games in order of their class standing as cadets. One of the few members of '66 who stayed in the Army and became a distinguished career military leader had been near the bottom of the class, in constant danger of flunking out. In the Academy's records he is permanently listed as #529-66—the 529th-ranking member of the class. Most of those near the top of the class-rank list left the Army as soon as they could.) It's not hard to see the connection between this emphasis on numerical ratings and the body-count obsession in Vietnam—and the broader connection to the careerist emphasis of the post-Vietnam military, in which officers tried to "max" their performance ratings by making no waves and pleasing the boss.

The intense hazing of new cadets, which theoretically increases their fortitude as individuals and their solidarity as a class, seems mainly to have made each year's victims eager to take revenge on the following year's class. The honor code taught at West Point clearly had an ennobling effect on some; but most of the stories Atkinson tells are of cadets trying to meet the letter rather than the spirit of the military's rules. One of the most striking illustrations, which Atkin-

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son passes over without comment (but which Buckley pounced on in his angry review) concerns what the cadets did immediately after graduation. They'd devoted themselves to military service, they'd heard about risk and sacrifice, their country was involved in a war—whose casualties were mounting but which was not yet as completely divisive as it would be in 1968—yet on graduation fewer than one-fifth of them volunteered to go to Vietnam. The majority applied for graduate school, specialized training, and so on. In the end, of course, most of the class members served in Vietnam and many of them suffered and died there. Still, their initial decision seems an incongruous application of "Duty, Honor, Country." (Of course, from the perspective of almost any other American university in 1966, the surprise is that as many as one-fifth were willing to volunteer.)

To answer the questions Atkinson's book raises, someone should start chronicling today's West Point cadets, seeing how they respond to circumstances entirely different from those of a generation ago: Now there are women in the corps; the Pentagon is more worried about getting into "another Vietnam" than most civilians are; there's a volunteer army whose morale often reflects its knowledge that it has been hired to do jobs its "betters" refuse to do; and the world-strategic situation virtually guarantees the U.S.'s steady retreat from its overseas bases. Someone should eventually tell that story as masterfully as Atkinson has told his. □

Marsh Mellow Fluff

Everything you never wanted to know about rock and roll.

by Jacob Weisberg

The moment you begin to analyze rock, you lay yourself open to the charge of taking something that's supposed to be fun way too seriously. Whether it's Allan Bloom linking Mick Jagger's Dionysian revel to the decline of Western civilization in *The Closing of the American Mind*, or Greil Marcus applying Theodor Adorno to the Sex Pistols in *Lipstick Traces*, critics who dissect pop tunes too fervently always seem to miss not only the point but the pleasures. Nothing is less appropriate to the unselfconsciousness of America's great cultural innovation than the high dudgeon it inspires in certain of its academic hangers-on. Lighten up, you want to say. It's only rock and roll.

In books on Bruce Springsteen and The Who, as well in his writings in *Rolling Stone* and elsewhere, Dave Marsh has been as guilty as anyone of this failure to let it be. A critic's critic, he bears a special responsibility for the vapid, pretentious tone that has infected rock reviewers at alternative papers and music magazines around the country. Whenever some trendy bore asserts that a new rap song is a "definitive and infectious cry of pain from the viscera of Reagan's promised land," he is mouthing the frothy rock-cant developed by the likes of Dave Marsh.

Marsh himself remains pop's master obscurantist. His new book* offers some gems of inscrutable prose: Marvin Gaye's version of "I Heard It Through the Grapevine" "distills 400 years of paranoia and talking drum gossip into 3 minutes and 15 seconds of anguished soul-searching." Led Zepplin's "Whole Lotta Love," "becomes an essence of grunge, a ragged, nasty projection of male hormonal anguish, that's as dangerous if it's feigned as it is if it's real." When he listens to "The Wind," a 1954 single by

Jacob Weisberg is associate editor of The New Republic.

* *The Heart of Rock & Soul: The 1,001 Greatest Singles Ever Made.* Dave Marsh. *New American Library, $14.95.*

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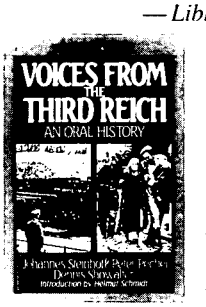

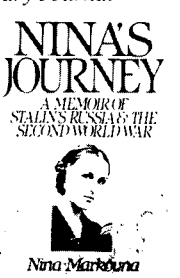

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some band called Nolan Strong and the Diablos, Marsh hears "the wimp-perfection of mid-eighties Michael Jackson" and feels "spooked and confirmed." *The Heart of Rock and Soul: The 1,001 Greatest Singles Ever Made*, is a massive compendium of such piffle—in excelsis, as the author himself might have it. Rarely do these "pseudy" adjectival phrases convey much more than a sense of "I like this a lot."

Pop culture always seems to inspire list-making (So what are your 10 greatest movies of 1989, Gene?), but Marsh has managed to produce a self-parody of the whole nerdy genre.

Part of what's funny about Marsh's book is the surgical precision of the rankings that accompany this quackery. Pop culture always seems to inspire list-making (So what are your 10 greatest movies of 1989, Gene?), but Marsh has managed to produce a self-parody of the whole nerdy genre. The Trammps's "Disco Inferno," we learn from his book, is the 83rd greatest single of all time, while Tracy Chapman's "Fast Car" is the 772nd, and Dave Edmunds's "Almost Saturday Night" and the Eurythmics' "Thorn in My Side" aren't among the thousand best at all (that hurts). The whole endeavor is so pointless as to defy comprehension. How can one evaluate Muddy Waters's "Mannish Boy" against the Beatles' "Ticket to Ride" and Joy Division's "Love Will Tear Us Apart"? They're all great songs on their own terms, too different to yield a meaningful comparison.

Marsh is intent on making comparisons not just within genres but among them. A fan of fifties R&B and sixties Motown, he gives 17 entries to Marvin Gaye, 13 to Chuck Berry, 12 each to James Brown and Aretha Franklin, 11 to Otis Redding, and 10 to Little Richard and the Temptations. There is endless discussion of fifties combos no one cares about, like the Elegants, the Jewels, the Diamonds, the Platters, the Coasters (the Drinks, the Ice Cubes, etc.). By contrast, the Velvet Underground, Neil Young, James Taylor, David Bowie, the Talking Heads, the Psychedelic Furs, T-Bone Burnett, R.E.M., and Tom Waits all get zero entries (to mention only a few). Bob Dylan, Paul Simon, Elvis Costello and all of punk are included but undervalued.

It's no accident. Marsh, the guilty white boy par excellence, admires the black, the soulful, and the emotional, while despising everything that is white, "progressive," "album-oriented," and to some extent, anything that is thoughtful in pop music. He is especially hostile to claims that protest is basic to the form. "Rock-as-rebellion," Marsh writes in the introduction, "is a story compiled almost exclusively by white men." If that's true, *The Heart of Rock & Soul* is the affirmative action plan.

It's a commonplace to say that the roots of rock and roll are in black blues and gospel. That's perfectly true, but Marsh is hung up on the idea that rock is something the white man tried to plagiarize from the brothers and never got right. That's a distortion. Elvis Presley's Sun recordings were not poor imitations of R & B hits, but a multi-racial hybrid. Though a racial divide persists in music, as it does in most aspects of American life, white and black have influenced each other to a point that it's impossible to say whether Prince and Madonna are black or white cultural phenomena.

Nor does music made by white people intrinsically lack feeling or sexual energy, as the Rolling Stones and Bruce Springsteen demonstrate. And the assumption that "black music" is expressive rather than intelligent is a canard dispelled by the recordings of such singers as Gil Scot-Heron, Tracy Chapman, and Joan Armatrading. The ultimate source of Marsh's dichotomy is the myth that blacks are more authentic and sexually potent than whites, a stereotype the neglected Lou Reed caricatured in his song "I Want to Be Black." In this respect Marsh, the African-American wannabe, is not just patronizing but racist himself. In fact, the best rock music is not a rhythmic expression exclusive to blacks, or a desiccated white radicalism, but a marriage of the rebellious instinct, sometimes articulate, with true feeling. Elvis Costello's "What's So Funny 'Bout Peace Love & Understanding," Springsteen's "Darkness on the Edge of Town," and Sly Stone's "Stand" are all songs of this type: powerfully felt protests about the way things are, in politics, in love, in everyday life.

Beat politics

More than books, movies, or television, music has a role in forming a political consciousness in young people. That doesn't mean rock has to have an ex-

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plicitly political content. When it does, it often degenerates into slogan-mongering or propaganda, as in John Cougar Mellencamp's posturing about the farm crisis or Peter Gabriel's human rights crusading. But the basic impulse of rock is anti-authoritarian: it may begin as just a moan about parental authority, but it leads to a questioning of institutional and governmental power. Where television fosters dull complacency, the guitar heroes of the young are the emblems of a mutiny that is partly personal, partly political.

Rock objects to the status quo without worrying about what should replace it. Dylan's "Subterranean Homesick Blues," is a great song because it's partly a socially-conscious protest rant and partly a dadaist comedy that doesn't mean anything. It captures a mood of discontent. Go to a concert by the Smiths today and you'll see teenagers who think their parents are hypocrites, feel strongly about gay rights, and like to dance. The lyrics don't offer an obvious message, but they do get across a feeling that something is wrong with the world. (If the Smiths and their fans had a sense of humor about themselves, they'd have it made.)

Anybody who has grown up since the Beatles era knows what this side of rock means. For me, Neil Young's "Rust Never Sleeps" and the Clash's "London Calling," which I listened to every day after high school for most of my freshman year, sum it up. These albums were about politics without supplying much of a program; they were concerned with principles and "selling out," not with supporting the ACLU. When you listened to the Clash's "Lost in the Supermarket," or Young's "Hey hey, my my," you got indignant. Simplistic and self-righteous though rebel rockers sometimes seem, they are a vessel for the healthy negative instinct of adolescents and college kids. One sees this phenomenon not just in the U.S., but in the Soviet Union, East Germany, and Czechoslovakia, where hardcore and heavy metal have become vehicles for mass dissidence.

The music Marsh likes best embodies the opposite principle: it is more inward-looking, preoccupied with private problems, or just about having a great time. The mawkish globaloney of "We Are the World" (#717) is his idea of how pop should be involved with politics. Of course there's nothing wrong with adolescents going surfing and feeling groovy, but rock does embody some nobler impulses as well. Revolt is much more important to pop than partying. And Marsh's list-making notwithstanding, its golden days are not ancient history yet. □

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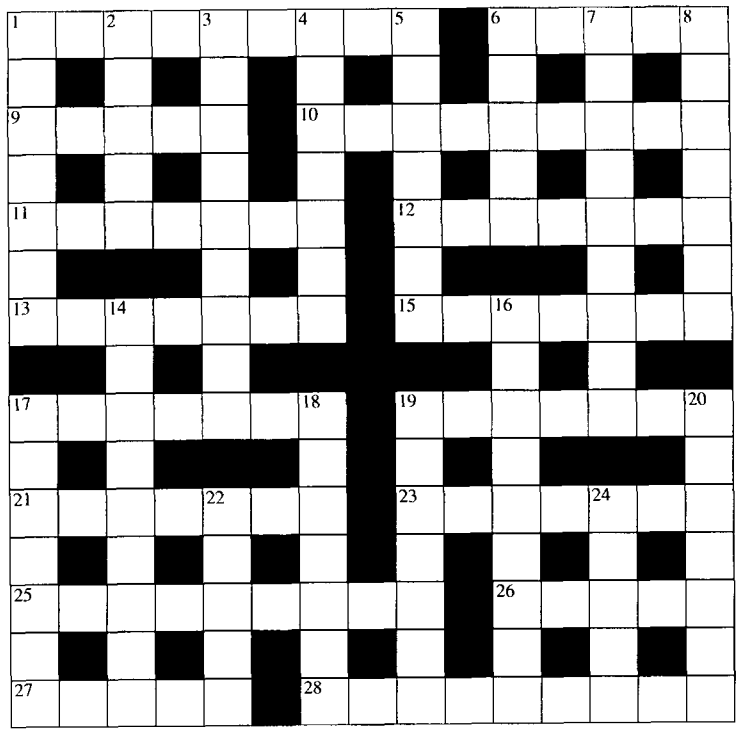
POLITICAL PUZZLE

by John Barclay

The numbers indicate the number of letters and words, e.g. (2,3) means a two-letter word followed by a three-letter word. Groups of letters, e.g. USA, are treated as one word.



ACROSS

1. Presidential slice into the woods? (9)
6. Bird shaking tree picks up $1,000. (5)
9. Travel widely in a fit of anger. (5)
10. Special gear for special river dove. (9)
11. Classical way to pick up nice tan. (7)
12. Threw out short charge in legal document. (7)
13. Top dean arranged for place to write things down. (4,3)
15. Change GOP fabric? (7)
17. Aristocrat puts on tan robe. (7)
19. Sailors smoking pot? (7)
21. Braised mixture for residents. (7)
23. Balm she concocted for awkward gait. (7)
25. Inability to perceive curtain blemish? (5,4)
26. True alloy refined. (5)
27. Reducer of pressure plans holiday without tea. (5)
28. Prickly president in the woods? (9)

DOWN

1. Preclude profit with a good buy? (7)
2. Set up icons for boom. (5)
3. When Europe is endlessly disturbed thereafter. (9)
4. Cut off Red boat maneuver. (7)
5. He makes dough, being somehow ranked in the East. (7)
6. Come out after this carton label. (3,2)
7. Put back into effect means of controlling gallery. (9)
8. Lever dealer upset after end of riot. (7)
14. Awes Eric first, surprisingly. (9)
16. Novel pair organized to persuade. (7,2)
17. Assign blame after bedroom shortage for 28 Across, for example. (7)
18. Drunkard beats one of his kind ascending. (7)
19. Italian dish or Tito's specialty. (7)
20. Hidden way to adjust the slat. (7)
22. Church officer queen led randomly inside. (5)
24. Oklahoma University under water makes water marshy. (5)

Answers to last month's puzzle:

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POLITICAL BOOKNOTES

Public affairs books scheduled to be published this month.

Risking Old Age in America. Richard J. Margolis. *Westview Press, $36.50.* "To a nation that runs more on instinct than on intellect," Margolis writes in the conclusion of his book, "elderly poverty may be the sternest cerebral challenge of all." Why elderly poverty is a bigger brain-twister than, say, childhood poverty, Margolis doesn't say, but sure enough it's a tough subject. Thinking about old age as a policy issue brings with it some of the darkest and most uncomfortable emotions that can beset a human being: namely, the absurd injustice that we are all slowly dying, and that most of us can't afford to grow old.

Unfortunately, Margolis doesn't meet the intellectual challenge he recognized would confront him in trying to make sense of America's aging policies. He has gathered telling statistics. He has mastered the complex legislative histories of programs like Social Security and Medicare. He has interviewed policy experts. Most impressive, he has traveled across the country listening to the elderly poor tell how they have been disserved by government programs designed to benefit them. But having so diligently reported on the failure of Social Security and Medicare to end poverty among the elderly, Margolis ignores his own evidence and boldly defends spending still more on programs that distribute without regard to need, using arguments that are as tired as they are irrelevant to today's circumstances. It is a triumph of compassionate instinct over intellect that is almost embarrassing to witness.

Margolis certainly has all the facts he needs to demonstrate the moral, if not the political, failure of Social Security. And indeed he is critical of the program. He notes, for example, that "the relatively generous benefits that Congress has made possible over the past generation have done almost nothing for the bottom echelon of Social Security recipients, serving only to widen the gap between the elderly poor and the elderly affluent." Social Security, he goes on to observe, "turns poor wage earners into still poorer beneficiaries."

That is a powerful indictment that many others have made before. Yet Margolis's conclusion from it is to declare "the natural superiority of universal entitlements—programs for everybody—to means-tested benefits designed exclusively for the poor."

Margolis knows enough about the politics of Social Security during the last generation to realize that they have led, as he puts it, to "affluent retirees enjoying a lion's share of the gains." Yet Margolis is still persuaded, in the face of this legacy of greed and neglect of the poor, that yielding to the demands of affluent retirees for still more subsidy will somehow relieve the suffering among the needy that he has so well chronicled.

Margolis was apparently driven to this conclusion by his reporting on the horrors of Medicaid, Supplemental Security Income, and other means-tested programs for the elderly. He demonstrates convincingly, for those who don't already know, that these programs are woefully underfunded, maddeningly complex in their rules, and administered by bureaucrats who are often uncaring and more often incompetent. But instead of searching for effective ways to humanize and streamline the bureaucracy, or for ways to attract greater political support for programs that target the

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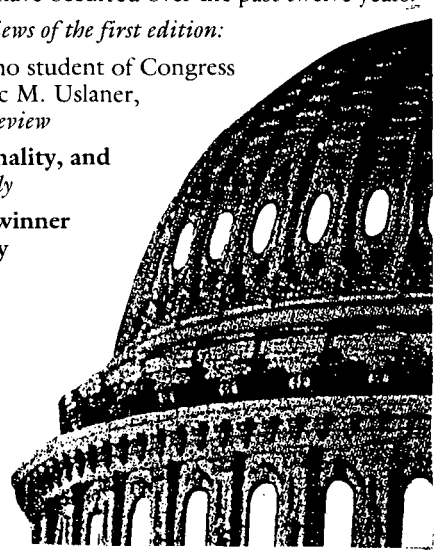

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needy, Margolis simply falls back on that cynical cliché of the New Deal generation that a means-tested program inevitably makes for a mean-spirited one.

In the Reagan years and even before, that cliché was proven true. But it doesn't follow, as Margolis's own reporting unambiguously shows, that our non-means-tested programs have been of any greater benefit to the poor. Indeed, with its highly regressive payroll tax, Social Security may already be pushing as many low-income workers below the poverty line as it is lifting retirees above it. And certainly, as the population ages, any program that distributes benefits on the basis of seniority alone will impose even greater burdens on younger taxpayers while also having to spread its benefits more thinly among the swelling ranks of the elderly. If universal entitlements are now failing the elderly poor—and they certainly are—in the future such programs will become even less effective in reducing poverty among the elderly, unless we find the moral and political courage to aim benefits, in one way or another, away from the affluent and to the needy.

Margolis's fixation on poverty among today's elderly does serve a useful purpose. A new stereotype of the elderly is emerging that holds them all to be affluent greedy geezers; that is certainly not true, as Margolis ably proves. But by neglecting the challenges faced by the next generation of elderly, Margolis lapses into serious errors of logic. "Most of us probably know as much as we need to know about the demographics of aging," he opines early on, and then just marches away from the subject, as if the aging of the population had no relevance to the policy prescriptions he offers. In his discussion of Medicare, for example, Margolis proposes numerous arguments for why the program should be expanded but never mentions that Medicare is officially projected to become insolvent long before today's middle-aged Americans reach retirement age.

This thoughtlessness about the future leads to all sorts of fuzzy sentiment. "Like Social Security, Medicare is a kind river in which all of us swim," Margolis writes. "In exchange for future protection, the young keep providing for the old, and in time the upstream givers become the downstream takers." It's a noble and poetic thought, but one that we have no right to believe. Today's old, when they were young, didn't contribute to Medicare because the program didn't exist. Today's young, when they are old, will have paid in throughout their working lives at ever higher rates, and Medicare will probably go broke before they retire, according to virtually all experts in the field. The solution is anybody's guess, but certainly ignoring the need for one won't make it go away.

Margolis is very good at identifying real needs, but his solutions would surely hurt the needy most of all, at least in the long run. Having committed himself ideologically to the "natural superiority" of universal entitlements, Margolis goes on to propose, for example, that every retiree in America be entitled to free home care—or in other words, a free nurse, maid, and cook. He even calls for all seniors, rich and poor alike, to be provided with a handyman, who would perform subsidized home repairs. Certainly many frail, low-income seniors could be kept out of costly nursing homes if we did a better job of helping them cope with daily routines such as shopping, cooking, and, yes, home repairs. But why younger Americans, the vast majority of whom don't even own homes, should pay extra taxes so that millionaires can fix up their mansions Margolis never explains. Nor does he explain how we will provide such expensive services to the needy if we squander so many resources on the rich.

As America grows older, the real cerebral challenge before us is how to persuade more middle-class Americans that it's a good idea to support government programs that will actually insure them against poverty in old age. As Margolis shows, that's not what our current programs do, yet these programs are already enormously expensive and will become more so as the population ages. Because old age is such a vulnerable time of life for virtually everyone, I believe the challenge can be met—but only if we recognize that it exists.

—*Phillip Longman*

Reporting the Counterculture. Richard Goldstein. *Unwin Hyman, $34.95.* History repeats itself, first as tragedy, then as anthology. Today's American culture borrows energies—and bogeymen—from bygone times more successfully than it generates its own. As girths widen and hairlines recede, reporters in their thirties and editors in their forties have revived the days when tie-dyed giants in long hair stalked the earth. The worst thing about the recycled sixties blips and collages, which have choked the media during recent anniversaries, is that they lie by sentimentalizing. Inadvertently, they shore up the mainstream belief that sentiment precludes clear thought. Subjectivity or objectivity, says this belief: choose one.

One virtue of the best of Richard Goldstein's *Village Voice* pieces of 1966-1971, now brought to life between hard covers, is their reminder that partisanship and insight need not cancel each other out. In those years, Goldstein proudly unlearned the inverted pyramid journalistic form he had been taught at Columbia, and signed up for what he calls, a bit pompously, "the struggle for subjectivity." His beat was rock, hip culture, widening out to movement politics on the left. In reading his pieces about the Rolling Stones, the Grateful Dead, Jim Morrison, even about a hack songwriter named John Kramer, what's clear is that Goldstein succeeded in tracking rock music across American culture precisely because he loved and felt rock music. The distant, Associated Press approach could never in a million cold facts have gotten the story.

Out of his unabashed love for rock culture, Goldstein distilled the recurrent insight of his collection: in the counterculture, hope and hype were entangled from the start. "The most fragile thing to maintain in our culture is an underground," he wrote from San Francisco in 1967. "No sooner does a new tribe of rebels skip out, flip out, trip out, and take its stand, than photographers from *Life* magazine are on the scene doing a cover. . . . American culture is a store window that must be periodically spruced and redressed." The freak culture of the hypothetical new age, Goldstein reminds us, had barely

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arrived in the Garden of Eden before it went into free Fall. "Flower power," he noted as early as 1967, on the occasion of the murder of two Lower East Side freaks, "began and ended as a cruel joke. The last laugh belongs to the mediamen, who chose to report a charade as a movement." This "bizarre camaraderie between the fourth estate and the fifth dimension" was rampant. Goldstein could have made the point that it was the straight press—playing by the self-made rule that what newsworthy people say is automatically news—that was most easily gulled. But his loving subjectivity at least got him close enough to notice that, while Bob Dylan's Mr. Jones may not have understood what was happening, he was already figuring out how to package it.

At his best, writing on the transitory promises and lasting inanities of pop culture, Goldstein finds his way into some of his characters—and then extricates himself just in time. A case in point is his treatment of one Steve Paul, a once-renowned New York club owner, who delivers himself of flawless "epigrammatic gems that go nowhere but look great," like "I refurbished this place by adding myself." (Goldstein dryly notes that Paul "watches to see that written down.") Goldstein's own sensibility serves as a resource: his willingness to serve, for a moment, as Paul's foil testifies to the man's powers and gives some insight into how the pop business works. Likewise, in his most arresting political report, Goldstein recreates his epiphany as a would-be revolutionary, telling how he came to yell "Pigs eat shit!" from the steps of the Art Institute during the Chicago Democratic Convention.

But no reportorial theory or method rises to all occasions, and "struggle for subjectivity" misrepresents what Goldstein actually does. His writing comes alive when he sees with binocular vision: one eye watching the scene, the other watching himself, each eye wide open. "In the sixties," Goldstein writes in his introduction, "it was easier. . .to sparkle and sass than to expose what lay beneath—in my case, doubt." When he buries that doubt, what he gets is one shallow fact after another, as in some unmemorable reportage of the 1968 Columbia University uprising, or blind rage, as in an uncritical report of the 1971 Marin County trial of Ruchell Magee and Angela Davis for the killing of a judge and the maiming of a prosecutor in an attempted prison escape. Operating on its own, subjectivity oversimplifies the story. The facts that passion sees aren't necessarily deeper than the facts that passion screens out.

Goldstein has a nice, flamboyant way with phrases. "Show business is such a squid," he writes in the course of a profile of Tiny Tim. "Tao on tap," he calls the massification of hip. "Churchmen and social workers in mufti eyed each other suspiciously like rival CIA agents assigned to the same cell," he writes of a Haight Ashbury meeting. "The cop you are likely to meet on the [Sunset] Strip stands next to his bike like an erection in navy blue." But the flip side of flip is glib, and Goldstein does succumb. "Subjectivity is still a subversive act," he writes today. Oversimple again. If you take a sassy *Voice* style, freeze it into the form of the pop profile, add a lot of money and 20 years, you get *Vanity Fair*.

The truth is that "the struggle for subjectivity" was won, but the war was lost. Alongside the inverted pyramid, we now have the inflated ego,

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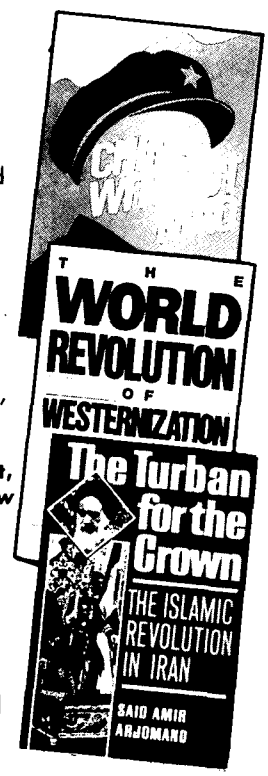

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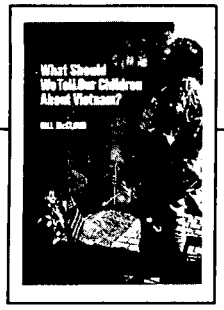

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WHAT SHOULD WE TELL OUR CHILDREN ABOUT VIETNAM?
Bill McCloud
When McCloud posed this provocative question to the people who directed, fought, protested, and reported the war, responses poured in from all over the country and all walks of life. Some were embittered, some were rueful, some almost elegiac, but every respondent took the question with highest seriousness. From the responses 128 letters were selected for this book. Contributors include: George Bush, Jimmy Carter, Barry Goldwater, Timothy Leary, Kurt Vonnegut, William C. Westmoreland, Henry Kissinger, and 121 others.
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and neither by itself will do. That's why old-style New Journalism cannot be resurrected. As Goldstein perceptively writes, the techniques of New Journalism "were refined at the moment when we first began to grapple with the power of mass media to standardize experience, and its embrace of subjectivity was an attempt to resist this processed consensus." But tactics that worked in the sixties today have curdled into the automatic and mindless first person or the canned eccentricity of a Geraldo Rivera. The smoothly tailored pseudo-personal voice that fills today's slick magazines might as well be machine-made—a voice devoid of critical self-awareness, a voice as ignorant as it is smug. Now that many reporters have adopted the spiteful kvetch as their voice, the question isn't whether subjectivity in journalism is a good idea, but what kind?

—Todd Gitlin

A Feast for Lawyers: Inside Chapter 11: An Expose. Sol Stein. *M. Evans & Co., $18.95.* What purports to be a case study of three companies that filed for Chapter 11 is mostly an anguished personal account of what happened to the author's own company, Stein and Day Publishers, after it was forced to seek protection from its creditors.

Far from the "protection" that the bankruptcy law supposedly offers, Stein soon discovers that Chapter 11 has put him at the mercy of greedy lawyers, bumbling judges, and vindictive claimants bent on his destruction. The whole process has nothing to do with restoring his company to health or even with getting the best deal for his creditors. In the end, the poor man and his wife (she's Day) lose everything. The publishing company is sold off for a pittance, perfectly saleable books are prohibited from being sold, the authors have no recourse, the creditors are shortchanged, everyone involved has wasted time and money on silly motions and hearings, and Stein is a pitiable wreck who can't even cash a check at the grocery store.

In this "madhouse rather than a place of healing," which is how Stein comes to view Chapter 11, the only real winners are the judicial bureaucrats and, of course, the lawyers, who are cynically padding fees all along, the only skill at which they truly excel.

His company's legal bills for one year of Chapter 11, Stein estimates, exceeded those of a quarter-century of normal operations.

This polemic would be more effective if it weren't for Stein himself. Once he gets up a full head of outrage, he complains about everything, even that law firms play music over their telephones while they put him on hold. Eventually, he gets around to slamming his town's zoning board for refusing approval to turn Stein and Day headquarters into a housing development, which would have increased its value as an asset. As he rails against this "unconstitutional deprivation of property," you begin to suspect that Stein himself may be something of a first-class pain in the patootie.

As Stein stands to address one of his least-favorite lawyers with "Mr. Borri, when you've been in *Who's Who* for 30 years you can talk to me that way and not until then," you may even feel a stirring of sympathy for his numerous enemies. By now, you're not surprised that this innocent victim has, on page after page, managed to bring out the worst in so many people.

Still, in the end, the point is made: Chapter 11 is a cure that's often deadlier than the disease; if a company was in trouble before it sought protection, it's a likely goner afterwards. If the whole Chapter 11 setup is based on the premise that it ought to be a punishment for people who can't pay their bills, then it works. Stein suffered! The lawyers collected for his sins! But then, that's money that might have gone to creditors or to keeping the business going.

What's needed, he argues, is a less combative arena for helping troubled companies figure out how to survive, similar to the no-fault proceedings that have taken some of the useless courtroom bickering out of divorce. Already there are turnaround experts who specialize in bringing companies back. Why not get them more involved in Chapter 11? At least put a cap on the legal fees.

—John Rothchild

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